

THE
THIRTEENTH
JUROR

FREDERICK TREVOR
HILL

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THE
THIRTEENTH JUROR

BOOKS BY
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FICTION

The Case and Exceptions
The Minority
The Web
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HISTORY

Lincoln the Lawyer
Decisive Battles of the Law
The Story of a Street
On the Trail of Washington
On the Trail of Grant and Lee

ESSAYS

Lincoln's Legacy of Inspiration
Lincoln and Justice

LAW

The Care of Estates



GORDON GRANT

"Tell him to raise law points, and more law points, and then some more."

THE THIRTEENTH JUROR

A TALE OUT OF COURT

BY

FREDERICK TREVOR HILL

Author of "Lincoln the Lawyer," "The
Accomplice," etc.

Illustrated by

GORDON GRANT



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. . . "I pray you, Sir, to understate your case
"Lest the full truth, surprising past belief,
"Deafen untutored ears."

Lophos.

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*"We must not make a scarecrow of the Law,
"Setting it up to fear the birds of prey,
"And let it keep one shape, till custom make it
"Their perch and not their terror."*

Measure for Measure.

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CHAPTER I

AN APPEARANCE

"They reckon ill who leave me out."

Emerson.

AS a matter of record, the Circuit Court adjourns twice a day during its stay at Belo. As a matter of fact, it never adjourns at all, for when the judge leaves the bench the proceedings are merely transferred from the floor of the courthouse to the lobby of the Reeve House, where lawyers, witnesses, litigants, and jurors fraternize in continuous session until the reopening of the official tribunal. Indeed, that antiquated, if not ancient, hostelry—the Reeve House—is quite generally regarded by Fraser County in the light of an annex to the Court, and some even profess to

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believe that it is the more important forum of the two. Certainly the village cynic is not alone in championing it upon the ground that cases are really settled there, whereas in the Court they are merely kicked up the stairway of appeal. But public opinion in Belo rather frowns on remarks of that character, as Dick Poinder learned to his cost when he announced, after one of his exasperating experiences in Gedney's case, that the lobby dispensed justice and the Court dispensed with it. In fact, that travel-stained witticism was in some danger of being taken too seriously until the Bar laughed it away by subjecting its perpetrator to a mock trial for plagiarism during the hilarious wind-up of the Christmas term.

On the evening that the Resurrectionist first appeared upon the scene the lobby was sitting as a sort of Court of Appeal, reviewing the day's work just completed at the rival tribunal on the opposite side of the road. Every chair in the circle that ringed the huge stove was occupied; half a dozen unclaimed trunks had been dragged from a corner to serve as settees; the writing-table

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had been utilized as a gallery; even the proprietor's sanctum had been invaded and robbed of its solitary high stool, and Old Man Reeve, thus deprived of his favorite throne, had perched himself on the office desk, with his feet dangling over the front, from which post of vantage he seemed to be presiding over the assemblage with all the commanding calmness of a judge upon the bench.

Old Man Reeve had undoubtedly once been young, but his youth probably antedated the period of the yellow, cracked, and fly-blown lithograph of the Bar of Fraser County, which had served as the sole ornament of the lobby since the early seventies. At all events, those who knew him at that distant day asserted that he was an old man then. But if he had aged prematurely, time had dealt kindly with him on the whole, for his round, clean-shaven face had suffered no change for many a season, and no one thought any more of his years than of the fact that he always wore low black shoes and white socks, and never condescended to a collar. His neighbors in Belo, it is true, reported that his vitality often seemed to wane during vacations, when the county

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seat relapsed into its normal rôle of a retired inland village; but each advent of the Court apparently gave him a new lease of life, and he invariably welcomed the returning Bench and Bar with all the vigor and heartiness of a man in the prime of life.

Certainly there was no keener observer in Fraser County than Peter Reeve as he sat on his improvised rostrum, pipe in hand, beaming a benediction on his assembled guests. He knew every man in the place and just what had brought him there; he could name every juror who had sat on any case of importance during the past thirty years, and give the inside history of his verdict; he was generally familiar with the claims of the litigants long before they reached the court-room; and there were not many lawyers who could tell him anything he did not already know concerning the private affairs of their clients.

For instance, as he peered through the gathering haze of tobacco smoke, he knew exactly what was troubling the frail little man who, note-book in hand, was hovering on the outskirts of the wide circle surrounding the stove. David Gedney and



Gedney implored other litigants to concede him the right of way
on the jury calendar

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he had been friends since the day when the firm of Gedney & Son first started in business just across the State line, and he had seen that business expand and prosper until it began to threaten the gigantic Farm Supply Company with a competition as unwelcome as it was unprecedented. It was not surprising, therefore, that he was familiar with every detail of the bitter trade war that had followed, the upshot of which was a litigation which had crippled his friend's resources and was now menacing the very existence of his firm. For five terms—more than a year—he had applauded Gedney's dauntless struggle to bring his enemies to bay in the court-room, but thus far the Supply Company had managed to postpone the day of reckoning by the various shifts and evasions familiar to all the Bar, but particularly well known to its attorney, Mr. Artemus Peck, one of Fraser County's most expert defeaters of the law.

Gedney had long since reached that dangerous period in the pursuit of justice when clients are neither laymen nor lawyers. In fact, Dick Pinder, his counsel, had been obliged to protest against his over-anxious interference time and

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again, reminding him that his business demanded his whole attention and that by neglecting it he was positively imperiling his cause. But Gedney, with his property all tied up and his credit exhausted, was beyond advice, and term after term he had haunted the lobby, note-book in hand, interviewing lawyers, buttonholing court clerks, imploring other litigants to concede him the right of way on the jury calendar, and generally working himself into a nervous condition bordering on insanity. Indeed, on this particular evening there was a really dangerous gleam in his tired eyes as he completed his tour of the room, and, sinking down on one of the crowded trunks, whispered to his nearest neighbor that he held the top of the calendar at last and that hell itself could n't prevent his case from being heard in the morning.

The young farmer to whom this enigmatical remark was addressed glanced apprehensively at the speaker and promptly vacated his seat on pretense of seeking a light for his cigar.

"Who 's the crazy old guy with the note-book, Pete?" he inquired as he reached the desk.

Old Man Reeve, listening to the tag end of a

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story from his side of the circle, disregarded the question for a moment, and then striking a match on his trousers and shading the flame with his hands, proceeded to relight his pipe.

"Reckon your Paw'd feel kinder set up, Eph, if he b'lieved you'd ever be as crazy as Dave Gedney," he replied, between puffs.

The youth laughed uneasily and shot a swift glance at his recent neighbor.

"Gosh! Is that Gedney of Gedney & Son?" he exclaimed. "No wonder I did n't recognize him. He's changed something terrible, and as for talk—"

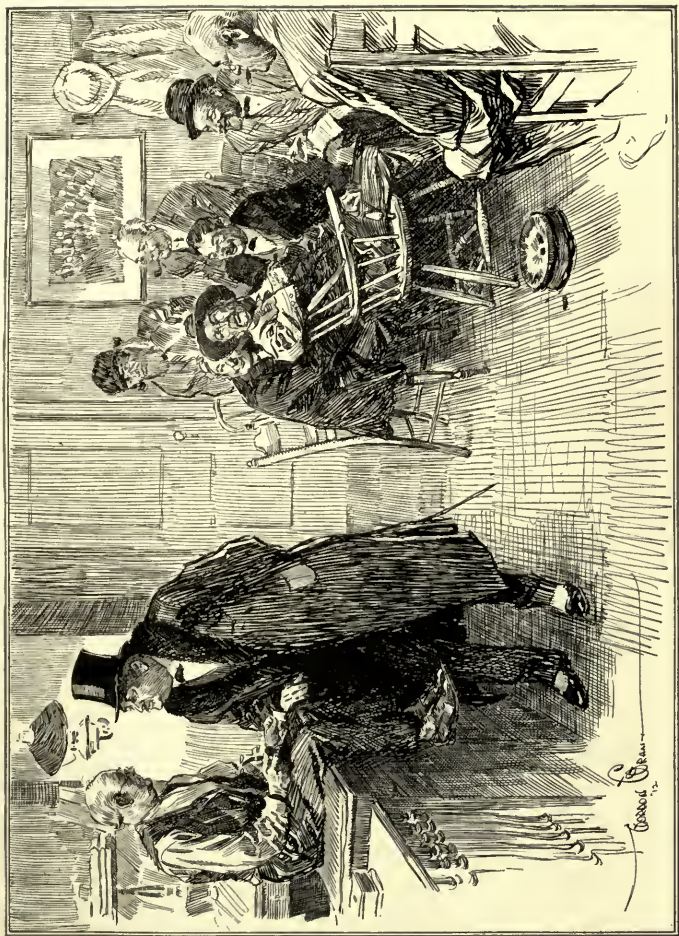
"You can't alwuz tell about a man by his talk, Eph," interrupted Reeve. "For instance, ef I sized you up by what you've just let on as to Gedney, I'd kinder suspect *you* wuz n't all intellect. But maybe you're a better judge er outsides, son," he continued, "and ef so, you can tell me what's coming in at the door right now. Blamed ef I ever saw the like of it afore in Fraser County."

The individual to whom the old man thus called attention was certainly an unfamiliar type to the

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denizens of the Reeve House, for all conversation had instantly ceased as he crossed the threshold, and every eye was centered upon him as he closed the door and stood looking inquiringly about him. Perhaps his huge stature, pompous bearing, massive head, and strong, hard face would have attracted more than a passing notice in any company, but it was not his face or his physique at which the habitués of the lobby stared in fascination. It was his high silk hat, his fur-lined, broadcloth overcoat, his chamois gloves, patent leather shoes, and mouse-gray spats that held them spellbound. But if the stranger was aware of the sensation he was creating he did not betray it as he leisurely unbuttoned his great-coat, and, shaking the powder of snow from its broad folds, glanced superciliously over the room. Then he strode directly to the desk and paused before its occupant.

Old Man Reeve did not stir from his perch as the visitor approached, but nodded a greeting and glanced through his big-rimmed spectacles at the card which was offered him. Then he looked up



The lobby strained its ears to catch some echo of the conversation that followed

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with a comical, questioning expression and, cocking his head, apparently invited explanation. The lobby strained its ears to catch some echo of the conversation that followed, but the newcomer spoke in low tones and the proprietor confined himself to monosyllables, accompanied with a wide-eyed stare of amused astonishment and punctuated by an occasional nod or shake of the head. As the dialogue continued, however, it was apparent that the visitor was becoming irritated, and finally, when he turned away with a muttered exclamation of disgust, and, striding across the room, banged the door behind him, a chorus of inquiry broke forth.

“What’s the matter, Pete? . . . Did n’t his nibs like our looks? . . . Who’s his Royal Highness, old man? . . . Say, Pete, do you charge extra for shows like that? . . . Why did n’t you tell us you knew the Prince of Monte Cristo, Grandpa? . . . That was n’t any common Prince, Mr. Reeve. That was a New York chauffeur! . . . No, it was n’t! It was a soap advertisement. What’s his brand, Pete?”

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Old Man Reeve glanced at the card in his hand and smilingly shook his head at the storm of questions.

"You kin search me, boys," he answered. "He did n't tell me what he wuz, but only what he wanted. Bet you'd never guess what it wuz, though. A suit of rooms *and* a bath!"

A roar of laughter greeted this announcement, in which the host of the Reeve House joined so heartily that he was obliged to remove his spectacles and wipe the moisture from his eyes.

"He allowed," he continued, chuckling, "that he telegraphed for that suit day afore yesterday, and was madder than hops when I told him we did n't have anything but lawsuits ready for him. I'm going to have that telegram framed ef Bill Watson ever gits time to send it over from the depot. Reckon it'd kinder give a stylish tone to the House, eh, boys?"

"Where 's he gone, Pete?" inquired Brundage, the State's Attorney.

"I sent him down to Miss Prescott's. She turned one of her bay windows into a bathroom last summer, and maybe she kin fix him up.

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He 'll be in hot water, though, if he puts on any airs with Ellen. O Lordy, yes!"

"What *alias* is the Great Mogul using just at present?" drawled Poinder, tipping back his chair against one of the columns supporting the lobby ceiling.

"This bit of pasteboard is labeled 'Wallace Dunham,' " responded the old man.

Poinder's chair bumped the floor as he leaned eagerly toward the speaker.

"Wallace Dunham!" he exclaimed. "Not Wallace Dunham, the Resurrectionist? Yes, by George, it is! I knew I'd seen his face before."

CHAPTER II

THE PEOPLE VS. DENSLOW

"All thieves who could my fees afford
Relied on my orations,
And many a burglar I've restored
To his friends and his relations."

Gilbert.

THE group around the wood stove stared silently at the speaker.

"What did you say the gentleman was, Dick?" inquired Brundage after a pause. "An Insurrectionist?"

"No, the 'Resurrectionist.' At least that's what they used to call him in the city fifteen or twenty years ago."

"Is he a minister?"

"No," whispered Hixon, the *enfant terrible* of the Bar. "He's the undertaker that's going to bury Gedney after the trial to-morrow. Eh, Poinder?"

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The lawyer frowned and cast an anxious glance at his client's careworn face.

"Shut up, Hixon," muttered Brundage. "That's a rotten kind of joking. Did you say your friend *was* a minister, Dick?"

"No, indeed," returned Poinder, smilingly. "He's a lawyer with a practice as big as a Trust. What the dickens is he doing in Belo, I wonder?"

"Why do you call him the Resurrectionist?"

"Oh, that's just a nickname. His specialty is reviving cases that are generally considered dead and done for. At least that's what he made his reputation on, and it was well earned, too, for I once knew him to bring a dead man back to life."

"Oh, come now! That's too much, even for the Munchausen of the lobby," protested a voice from the other side of the circle, and Poinder, glancing in that direction, observed that his opponent Artemus Peck had risen.

"Well, it may be too much for you, my dear Baron," he drawled. "You're the best judge of that. But truth is stranger than even your fictions, as I can show you if you'll wait a minute."

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"Sorry I can't stay, but I've never had any reason to doubt the strangeness of *your* truths, Poinder. Come on, Bob, if you're coming."

Hixon rose as Peck passed out of the front door, and for some moments after he had followed his friend the lobby was uncomfortably quiet. There was always too much bitterness in Poinder's and Peck's repartee for the Bar of Fraser County. It invariably smacked of a family quarrel disagreeably embarrassing to all within earshot, but Old Man Reeve usually came to the rescue, as he did on this occasion.

"Go on and tell us about your Revivalist, Mr. Poinder," he suggested.

"Resurrectionist, Pete," corrected the lawyer. "Revivalist is much too mild a term. Well, maybe some of you remember that I served my legal apprenticeship in the office of the State's Attorney in the big city more years ago than I like to confess. Anyway, it was there I first met Wallace Dunham. He was n't so fat and prosperous as he is now, and he did n't despise criminal business when it knocked at his door. But he never was the kind of fellow that practises for love or fame,

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so I was astonished when he appeared as the counsel for Buck Denslow, who had neither money nor friends. Buck was just a common ruffian who had betrayed one of his gang to the police and then shot another pal who discovered his treachery and threatened to expose it. He was caught red-handed, and I suppose it was because the case was absolutely indefensible that its prosecution was intrusted to me, for I was nothing but a novice at the time. Well, I venture to say that no tyro at the Bar ever received as rough an initiation into the ways of the law as came to me out of the case of the *People vs. Denslow* from the moment Wallace Dunham appeared upon the scene.

“He began proceedings by moving to set aside the indictment on the ground that it did not state that Denslow’s victim, Ben Limond, was a human being, and that no one could be indicted for murder unless he had killed a human being. As a matter of fact, Limond *was* more of a brute than a man, and at first I regarded Dunham’s point as a joke. Anyhow, I never dreamed that the courts would listen to it. . . . Did you say they

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would n't, Corning? All right, my boy! I'll give you verse and chapter for that case and you can follow it as I did, all the way up to the highest tribunal in the State. You'll do it quicker than I did, however, for by the time the last court disposed of his arguments Dunham had consumed the best part of a year, and all this time his client had been enjoying the hospitality of one of our most comfortable jails—a fact which was beginning to attract the attention of the press. Of course, I was n't to blame for that, but I had no desire to be criticized, and I pressed the case to trial with the utmost vigor. Indeed, I rushed it so furiously into court that Dunham nearly broke my heart when he tripped me with a dictionary."

"Tripped you with a dictionary!" interrupted Corning. "That's a joke, is n't it?"

"Indeed it was no joke. The day before the case was set for trial Dunham called at my office to advise me—out of professional courtesy, he said—that there was an error in that part of the indictment which described Limond's wound as being in his breast. 'Well, it *was* in his breast,'

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I asserted. No mistake about that. 'But not in his b-r-e-s-t,' he persisted, showing me the mistake in typewriting the word. I laughed, but he retorted by pulling down one of the law reports from my shelves and pointing to a decision that declared that such misspelling in an indictment rendered it fatally defective. . . . Maybe you think there is no such case, Corning? Oh! You *have* seen that one, have you? Well, I did n't thank Dunham for showing it to me. The old fox merely wanted to save himself the trouble of drawing up motion papers, and knew this pretended courtesy would serve him equally well. And it did. I consulted with my chief, of course, but he decided it was n't safe to proceed in the face of that decision, and we began our proceedings all over again.

"By this time you can readily believe that I had grown somewhat wary, and I tell you every *t* was crossed and every *i* dotted before my new papers were filed. Indeed, they *must* have been pretty well drawn, for Dunham was plainly worried, and he fairly deluged me with motions to inspect

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the minutes of the grand jury, to change the place of trial, to determine the sanity of the prisoner, to stay the trial pending the arrival of missing witnesses, to do anything and everything that would delay the proceedings or free his man by hook or crook. I've got the documents that were printed at the State's expense in the various appeals before a jury was even as much as summoned in Denslow's case, and I give you my word they fill two volumes, each as big as an unabridged dictionary.

"But we got to trial at last, and though the case was simplicity itself, I prepared it with the utmost care. Not too carefully, however, for Dunham poured exceptions into the record in a steady stream, and strung out the testimony day after day until he accumulated such a mass of stuff that two assistants of mine had to work nearly a month with the stenographers' notes when it became necessary to print the papers on appeal. . . . Oh, yes, of course I convicted Denslow. But that is n't the point of my yarn. You don't suppose I'd bore you fellows if I'd nothing more to offer than the old, old story of

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the law's delays. As a matter of fact, I convicted Buck four times.

"I don't know that the details of that long game of 'last tag' would interest you, but some of them were a bit out of the ordinary. After the first verdict the appellate court ordered a new trial because of a technical objection which Dunham had interposed to the method of drawing jurors. It was a perfectly absurd quibble, but there was no help for it, so I put him on trial again, and, avoiding the previous pitfall, obtained another conviction. Did it stand? It did not. The jury had agreed late at night, and the judge had ordered them to render a sealed verdict which the foreman had recorded in due form, except that he had written that the prisoner was guilty of murder in the first *decree* instead of the first *degree*. That was Dunham's chance, and, with the aid of his old reliable dictionary and the learned reviewing court, his client received a new lease of life and another new trial.

"New trials for old was the order of the day with me now, so I was rather surprised to get through two appeals after the next conviction

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without mishap. But the Court of last resort came to Denslow's rescue just in the nick of time with an opinion declaring that the judge who sentenced the prisoner had erred in failing to ask him the formal question as to whether or not he knew of any reason why sentence should not be pronounced against him. . . . I'll show you that masterpiece of judicial erudition some day, if you have n't already come across it in the books.

"Well, practice makes perfect, and the next time I brought my man before a jury I sustained his conviction through all the courts, and the day set for his execution was just five years after the commission of his crime, which up to that date had cost the State nearly twenty thousand dollars."

"I know another case that took even longer than that," observed one of the audience, as Poinder paused.

"Of course you do," he admitted. "The law books of this country are filled with them. But you won't find the climax of *this* case in the records, my friend."

"Don't get alarmed, Bigelow," admonished

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Foster, addressing the interrupter. "This story does n't infringe on any of yours. Did n't you hear Dick say there was a point to it? Go on, Poinder."

CHAPTER III

NEWLY DISCOVERED EVIDENCE

"I would rather be eaten to death with rust than be scoured to nothing by perpetual motion."

Henry IV.

"**P**ERHAPS I need n't tell you that long before I convicted his client for the fourth time Dunham and I had become pretty bitter enemies," continued Poinder as the laughter subsided. "I don't believe I'd spoken a word to him outside the court-room for three years, and my office associates, who had begun by joking me about the case, had ended by sympathizing with me and sharing my feeling toward the Resurrectionist. The final decision of our highest courts was accordingly welcomed as an office triumph, and I was congratulated accordingly. But the congratulations were premature.

"It was about this time that electrocution was substituted for hanging in our State, and Dunham

NEWLY DISCOVERED EVIDENCE

appealed to the Supreme Court of the United States on the ground that the new law violated the Constitution. No one supposed that that tribunal would interfere, and, as a matter of fact, it made such short work of the contention that Denslow merely gained a few months' respite. There was then only one move left for his counsel, and of course he took it by petitioning the Governor for clemency on behalf of his client. But I knew that if the Executive interfered to save *that* cold-blooded murderer he might as well sign a commutation in blank for *all* assassins, and I had no fear of the result. Nevertheless, it was not until I filed away his brief memorandum denying the petition that I regarded the case of *People vs. Denslow* as officially closed, and felt justified in dismissing it from my mind."

"I should think you'd have nicknamed Dunham the Obstructionist instead of the Resurrectionist," observed Foster.

"Well, we might," resumed Poinder, "if he'd displayed nothing more than commonplace jugglery with the law. But though Denslow was, figuratively speaking, at the end of his rope, his

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lawyer was n't, and a few days before the date set for Buck's execution this was impressed on my mind in a really startling fashion.

"I had arrived at my office somewhat earlier in the morning than usual, and was surprised to find a visitor already waiting for me in the ante-room, who introduced himself as Dr. Emile Atwood. He's dead now—God rest his soul!—but that was n't his right name, and I'm not going to tell you what it really was. Naturally, the name he used suggested nothing to me, but he appeared to be a highly intelligent, cultured gentleman, and I begged him to state his business, which he did by remarking that he had called to talk about the case of Buck Denslow.

"'Good Lord!' I exclaimed. 'I thought I was through with that case. Well, what about it?'"

"'I want to ask you,' he inquired, 'if there is still any chance of a reprieve or commutation of Denslow's sentence?'"

"'Certainly not,' I replied. 'He ought to have paid the penalty of his crime five years ago. He and his lawyer have cost the State nearly twenty

NEWLY DISCOVERED EVIDENCE

thousand dollars already, and I think it's about time they stopped cheating the law at the public's expense.'

" 'The defense has been quite as costly,' he observed, reflectively.

" 'Nonsense!' I retorted. 'Denslow has n't a cent and Dunham has spent comparatively little.'

" 'He's spent nothing,' he replied. 'But still, if it is any satisfaction to the State to know it, the defense has been costly. I know it, because I supplied the funds myself.'

" 'There was a time in my professional career when that reply would have astonished me, but I had long since schooled myself against surprise.

" 'I see,' I responded, quietly. 'You thought Buck innocent?'

" 'On the contrary,' he replied with equal calmness, 'I knew he was guilty. A more contemptible murderer never lived.'

" 'Then why, in the name of common sense, my dear sir, did you spend money to defend him?' I demanded.

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“ ‘Merely to appease my conscience,’ he replied. ‘I killed Ben Limond myself.’ ”

“All my years of training were not proof against the exclamation of incredulity that escaped me. And yet there was something in the doctor’s hard, matter-of-fact tone—something in the way he looked at me as he removed his glasses and calmly polished the lenses in his handkerchief—which convinced me that he believed he was speaking the truth.

“ ‘You must be out of your mind!’ I asserted. ‘Denslow and nobody but Denslow killed Limond. There were two eye-witnesses of the murder. No less than four juries have convicted the man of that crime. What in the world do you mean by saying you are guilty of it?’ ”

“The doctor readjusted his glasses and settled back in his chair.

“ ‘I have no wish to be melodramatic,’ he observed, dispassionately. ‘I hate all posing of that sort, and the facts are very simple.’ ”

“I did not trust myself to speak, but merely nodded approvingly.

“ ‘Limond was brought to the Emergency Hos-

NEWLY DISCOVERED EVIDENCE

pital where I was the visiting surgeon immediately after Denslow shot him,' he explained, in the cold professional tone of statement. 'He was not dead, but I saw at a glance that his wound was probably fatal. However, the proper thing to do was to attempt an operation, and he was put under ether at once. It seemed a hopeless task, but as I worked the thought crossed my mind that here was a magnificent opportunity for an experiment I had long desired to make in an operation of this kind but had never quite dared risk. There was no time to debate the question of professional ethics or legal responsibility—the temptation was overwhelming, and I simply could not resist it. All I wanted to do I could effect very quickly. Moreover, Denslow was virtually moribund, and my greatest fear was that he would die before I could make my experiment. . . . Well, he must have been even nearer death than I supposed, for his life went out under my instrument like a candle under one's thumb and finger.'

"The doctor paused and snapped his fingers together.

" 'Just like that,' he commented, musingly.

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"I stared at the speaker with unfeigned amazement, wondering whether I had to deal with a lunatic or a sane man. He speedily resolved my doubts, however.

" 'At the time I felt no compunction whatsoever for my act,' he continued. 'Limond might have lived anywhere from an hour to a day had I not interfered, but no longer. I did not, in any real sense, feel guilty of his death. Indeed, what I did was such a slight matter that the coroner entirely overlooked it, and it was not until a few weeks later, when an operation successfully performed on a similar case showed me just where I had made my mistake, that I gave the matter any further thought. Then, of course, I began to be disturbed by the situation. Perhaps I would have done better had I sought the advice of some lawyer. But I did not. I thought the whole thing out for myself. If I confessed exactly what had happened at the hospital, I fancied that I might be indicted as a criminal and I knew my reputation would be ruined, and I was just on the threshold of a highly successful career. Had there been the slightest doubt of Denslow's guilt

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I would not have hesitated a moment to sacrifice myself. But, as you know, the man was a cowardly murderer, richly deserving his fate. It was madness to think of blighting all my prospects in his behalf. Nevertheless, the matter preyed upon me, and I finally compromised with my conscience by secretly furnishing Denslow with the means of retaining Dunham and indirectly supplying him with funds to keep up the fight in the hope that he would find some way of at least saving his client's neck. That was all I wanted. But I now see that he has merely succeeded in making a mockery of the law, and money out of me.'

"You may imagine with what feelings I listened to this extraordinary statement, but despite my exasperation and disgust I could not but feel some sympathy for the fellow. When I spoke, however, my tone was brutally harsh and forbidding.

" 'Well, why do you consult me, Doctor?' I demanded.

" 'To ascertain if there is anything I can do, short of a confession, to save Denslow's life,' he

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answered, suavely. 'You are the public prosecutor in this case. Perhaps if you made the proper representations to the Governor he would commute the sentence.'

" 'I shall do nothing of the sort, sir,' I retorted, sternly. 'You'd better get your full money's worth out of your friend Dunham and go to him for advice.'

" 'That will not be necessary,' he asserted, complacently. 'I have laid the facts before the public authorities. If they do not choose to act upon them, that proves that they think the law should be allowed to take its course and shows me that I have given myself a vast deal of unnecessary anxiety and expense for nothing. In any event, I wash my hands of all further responsibility in the matter, and wish you good-morning, sir.' "

" 'Well, that fellow was certainly a cool proposition,' commented Brundage. " 'What the dickens did you do, Poinder? "

" 'What could I do, Tom? As a prosecuting official, you know I could n't suppress the facts; and as a man and a lawyer, you know that they

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did n't really affect the question of Denslow's guilt at all. He and not the doctor really killed Limond. Oh, of course I know there *are* decisions freeing murderers because the surgeons who sought to save their victims were careless or incompetent, and I was equally well aware that all that bad law would be grist to Dunham's mill; for what has fooled judges can be used to fool juries. However, there was no escape, and I actually had to supply the fellow with the ammunition for demanding another trial on the ground of this newly discovered evidence. Indeed, I've always thought it must have been this humiliating duty that precipitated the nervous breakdown which incapacitated me for the next twelvemonth. Anyway, when I recovered and returned to the office the *People vs. Denslow* gave me no further concern. In my absence it had been turned over to one of the most hopeless blunderers on our office staff, who permitted one of his eye-witnesses to be smuggled out of the State under his very nose, and got his whole case so side-tracked that before it was reached the other eye-witness died. You can fancy what kind of

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a showing he made on the trial against Dunham and his corps of surgical experts. No wonder the jury acquitted the innocent Buck!"

"Gee whiz!" ejaculated Eph Bisland. "Got off scott free after all! Eh?"

"Yes, as far as *the law* was concerned," drawled Pinder. "But one of Limond's friends shot him the day he left the jail, and the police never caught his executioner."

"And this is a government of law!" muttered Gedney.

"No, sir—of lawyers," laughed Brundage.

The little man rose to his full height and glared angrily at the speaker.

"You laugh, sir!" he burst forth, fairly trembling with rage. "You dare to laugh at such mockeries of justice! It is infamous, sir! It is downright infamous that a public officer of the law should treat such scandalous outrages as a joke, and consent to giggle at evils that are undermining our government, debauching our consciences, and shaming us before our neighbors and

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the world. Sir, your imbecile laugh will sound the doom of this country—if—”

“Come, come, Mr. Gedney,” interrupted Poinder, soothingly. “You must n’t get excited. We’ve got a hard day before us to-morrow, and you and I must go up stairs to prepare for it. Brundage and I will discuss the whole subject with you dispassionately some other day, won’t we, Tom?”

The Prosecutor nodded understandingly.

“Certainly,” he responded; “and I sympathize with your views more than you suspect, Mr. Gedney,” he added, soberly. “Good-night, sir.”

“Good-night.”

The little man was already on his way toward his room as Brundage spoke, and his response was uttered without turning his head, as, accompanied by his counsel, he mounted the creaking stairs.

For a moment there was a dead silence in the lobby, its occupants apparently listening to the sound of the retreating footsteps. Then the front door opened and young Hixon, knocking the snow off his shoes, resumed his seat in the circle.

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"Where 's Poinder and Gedney?" he inquired, glancing about him.

"They 've gone up stairs," answered Brundage. "Their case goes on to-morrow, you know."

"I bet it does n't," asserted Hixon. "Witnesses - in-the-case-of-the-Supply-Company-vs.-Gedney-will-return-to-the-court this year—next year—sometime—never!" he chanted. "The Supply people have retained Poinder's friend the Resurrectionist. That 's what he 's in Belo for. Wow! What a pleasant little surprise for Poinder! And, say, Pete, I guess you 'd better get a padded cell ready for Gedney! . . . Shut up yourself, Brundage! I'll talk just as much as I like!"

CHAPTER IV

THE TOP OF THE CALENDAR

"It pleases time and fortune to lie heavy
Upon a friend of mine who, in hot blood,
Hath stept into the law, which is past depth
To those that, without heed, do plunge in "

Timon of Athens.

AT its best the lobby of the Reeve House could not be truthfully described as cozy. On winter evenings, with the visiting court crowd seated around the old wood stove, it was cheery, but warmth was about the only comfort it supplied. The memory of those joyous occasions, however, so completely transfigured it in the eyes of its devotees that they would probably have resented the introduction of modern improvements had their host been inclined to such sacrilege. But Old Man Reeve had apparently never contemplated any change in the severe simplicity of his private forum since the day he had hung the

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framed lithograph of the Bar of Fraser County to one of its yellowing walls, and that lone effort at adornment was beyond the recollection of most of those who now attended the sessions of the Circuit Court at Belo.

But, bare and uninviting as the lobby usually was, it never seemed quite so hopelessly crude or so shamelessly dilapidated as it did when the first light of dawn streaked through its shop-like windows, revealing the "clothes-pole" columns supporting the papered ceiling, the dead stove powdered with ashes, the mournful circle of empty chairs, the displaced tables, the scattered trunks, the unswept floor, and all its other uglinesses in the disarray of recent occupation. Fortunately, the only person subjected to the depressing influence of the place at that gray hour was usually proof against it, for Zeb Turner, the fire-maker and handy man of the Reeve House, was a cheerful youth who generally whistled as he worked. On the morning appointed for the trial of Gedney's case, however, Zeb was not in his happiest mood, for he had sat up until nearly twelve o'clock the night before listening to the lawyers discuss

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the exciting possibilities of the impending legal battle, and had risen earlier than usual with the idea of finishing his tasks in time to witness the coming fray. It was probably his loss of sleep, therefore, combined with the raw chill of the morning air, that dampened his normally buoyant spirits and toned his whistle to a minor key. Certainly the sound of the drizzling rain on the moist-screened window-panes, the wintry blackness of the sky, and the stale atmosphere of the lobby were depressing enough to lower any one's vitality; but as the boy paused, shivering and yawning, on the threshold, he was conscious of an uncomfortable feeling that could not be attributed to his dismal surroundings. For a few moments he was utterly unable to fathom his sensations, and then it gradually dawned upon him that he was afraid—afraid that the room which ought to have been vacant was inhabited, and that somewhere in the darkness something or somebody was watching his every movement. As if in response to this dread impression, he tiptoed across the floor, his rubber boots making little or no sound, and paused near the office desk in a listening attitude.

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Hearing nothing, he noiselessly opened the stove door, deposited his bundle of paper and kindling, and peered apprehensively into the gloom as he fumbled in his pocket for a match. When he found it, however, instead of striking it as usual on the metal floor-shield at his feet, he stroked it cautiously against the inner lapel of his coat, and, shading the smoldering stick with his hand, raised it above his head. For a second or two the glow of the burning sulphur only served to intensify the darkness, but as the wood caught fire big shadows began to dance upon the walls, and in the flickering light Zeb saw something that held him open-mouthed and staring. Behind one of the writing-tables at the far side of the room stood a small, gray-haired man attired in his night clothes and dressing-gown, nervously arranging bundles of papers and packages of books, first on one side of the table and then on the other, his hands trembling with excitement, his head vibrating as with palsy, his mouth set in a hideously ingratiating grin, and his eyes wide open but as unseeing as the blind.

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The match in the boy's hands scorched his fingers before he dropped it, blotting out the startling figure, but he continued to stare in its direction as he crouched and, groping behind him for his lantern, drew it to him and lighted it solely by the sense of touch. Then he raised it above his head, and its glow apparently attracted the attention of the man behind the table, for he turned toward it, glaring savagely like a hunted animal and shielding his litter of books and papers with outspread arms. Then he suddenly turned away with a snarl and recommenced the hurried, nervous shifting of his documents. One glance had been sufficient for Zeb to identify the man, and, with a half-suppressed exclamation of alarm, he swung on his heel and, dashing up stairs, hammered at the nearest bedroom door, which promptly opened, disclosing Old Man Reeve partly dressed and apparently in the act of shaving.

"Hello, Zeb!" he drawled. "What 's the matter with you? House on fire, or what?"

"Matter enough, Pete!" panted the boy. "Old

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Mr. Gedney's down stairs in his nightshirt fussin' with his books and papers, and actin' that wild he's got me 'most scared to death."

Startling as the information was, it did not disturb the serenity of Peter Reeve's round, good-natured face.

"Sho!" he muttered, musingly. "I kinder thought they'd git Dave all worked up 'fore they wuz through last night. But there ain't no sense in gittin' flustered 'bout it. He's probably walkin' in his sleep and dreamin' his case is being tried. I'll go down and 'tend to him just soon's I kin git my clothes on. Meanwhile you go and rout out Lawyer Poinder, but don't raise the hull house doin' it. Understand? Then jump, son!"

The boy sped down the narrow hallway and the hotel proprietor re-entered his room, emerging again just as Zeb hove in sight, followed by a tall, keen-faced, clean-shaven man, slightly beyond middle age, alert and active in every movement.

"Well? More trouble, Pete?" he queried, as he greeted his host.

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The old man shook his head.

"Reckon not, Mr. Poinder," he answered. "How 'n thunder you git dressed so quick?"

"By not having undressed, Pete. When our friends the enemy retain a fellow like the Resurrectionist over night, it's well to do some thinking before morning, so—"

"Dave's been thinkin' too," interrupted Reeve with a jerk of his thumb toward the lobby. "You and him 'll both be in slings ef you don't stop your fool thinkin'. Let's go down and git him to bed. Hush!—Wait! He's comin'."

"Don't wake him, Pete, if he's asleep," warned the attorney. "It's sometimes dangerous. Cover your lantern quick, Zeb! . . . Now step over here. . . . No! More into the shadow. . . . That's right! Now don't speak or move. I'll do whatever's necessary."

Mr. Gedney had already reached the first landing as the lawyer whispered his instructions, and in another moment he appeared at the head of the staircase and paused, panting under a heavy load of books and papers. All trace of anger had faded from his face, the ugly, set grin had relaxed,

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and his whole appearance was merely that of an aged man wearied to the verge of exhaustion. Indeed, he seemed so nearly on the point of collapse as he stood swaying under his ponderous burden that Mr. Poinder instinctively moved forward to his support, but at that instant his client's lips parted with a tired, twitching movement.

"‘The top of the calendar’ to *you*, sir," he whispered, inclining his head. "A happy—a most happy greeting. . . . I thank you. ‘The top of the calendar’ to *you*, sir, when your time comes. . . ."

He paused, lurched toward his counsel, gazed at him for a moment with a bewildered stare and then with slowly dawning recognition.

"I was just wondering where you were, Mr. Poinder," he remarked at last in feeble, trembling tones. "I'm glad to see you're still up, sir. . . . There are one or two things that have worried me in these books and papers. . . . Yes, thank you, if you don't mind. They are a bit heavy. . . . And I feel so tired—more tired than I ever was before. . . . Yes, I wish you would. We could talk as I get ready for bed, and there are one or

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two things, sir . . . one or two things that have worried . . . worried me. . . .”

The sound of his voice faded away as he moved down the hall, and Old Man Reeve, answering Mr. Poinder's parting signal, laid a finger on his lips and motioned Zeb toward the stairs.

CHAPTER V

WITHOUT PREJUDICE

“All may be well ; but if God sort it so
'T is more than we deserve or I expect.”

Richard III.

BREAKFAST at the Reeve House was always a movable feast during Circuit week, to enable those having business with the Court to obtain an early start, and to accommodate those who, merely marking time with Justice, were in no hurry to begin the day. On the morning scheduled for Gedney's case, however, the dining-room was uncomfortably crowded soon after the rising gong, and Old Man Reeve, hurrying Zeb to reinforce the kitchen, took a hand in waiting on the guests himself. Even then the service was anything but rapid, and young Corning, watching the clock behind ramparts of papers, fumed indignantly at the delay.

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"Well, what difference does it make to you, Corning?" demanded Brundage. "Your case can't be tried to-day. In fact, you'll be lucky if you're reached this term with Poinder, Peck, and his friend Dunham on deck."

"Yes, and if their case *does n't* go on, the whole calendar will break," grumbled the novice. "I've seen that happen before, and I intend to be ready if I have to go without my breakfast."

"There are cakes this morning, my son," admonished Foster, "and if you sit here eating them until your case is reached you'll have some weight with the Court, for I happen to know that the Supply people have got to give Gedney a trial this morning whether they want to or not."

"Huh!" scoffed Corning. "Wallace Dunham is in the game now, and if he wants an adjournment I guess he'll get it."

"No, he won't, my boy. The Judge made Peck stipulate in open court not to ask any more adjournments before he gave him his last respite, and he won't get another."

"Yes, and he had the stenographer note the agreement," corroborated Brundage. "Peck and

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his crowd can't fool Kinsley any longer. By the way, Pete," he continued, as Old Man Reeve backed through the swing door bearing a heavily loaded tray, "where was his Honor last night?"

The proprietor slid his tray over the edge of the table and began distributing the plates like an expert dealing cards.

"Beeksteak's yourn, ain't it, Mr. Corning? Ham and eggs for Mr. Mapes, and I reckon you never tasted better ham than that, sir. Oatmeal?—who's oatmeal? Here you are, my friend. What did you say, Mr. Brundage? Where was the Judge last night? Down to the Forks 'lectioneering—war n't he?"

"Yes," interposed Watkins, "and he made a ripping good speech, too. There was n't an inch of skin left on the opposition when he got through with 'em. He said Diogenes would n't have even waved his lantern in the direction of that crowd. He 'd have known instinctively that there was n't an honest man in it."

"That's a pleasant sentiment from a judge who is supposed to administer impartial justice," remarked Mr. Torrens, one of the few laymen at

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the table. "Fortunately I'm of his party, but if I was n't I think I'd ask you to take my case before some other judge, Mr. Foster."

"Oh, that's just stump-speech humor, Mr. Torrens," responded the attorney. "Kinsley would n't let political differences influence him on the bench."

"Well, I don't like a judge who mixes in politics. What's he do it for?"

"He's got to, I reckon," chuckled Reeve. "That's right, Zeb. Put those cakes down by Mr. Corning and hurry up some more coffee. We're on the jump this mornin', boy!"

"Why has he got to, Mr. Reeve?"

The old man, pottering about the busy table, paused, and, mopping his face with his apron, smiled good-naturedly at his questioner.

"It's easy to see you ain't had any time for 'office-huntin', Mr. Torrens," he remarked. "If you had a political job—"

"A political job! Do you call a judgeship a political job?"

"Sure. Don't you?" laughed the old man. "Reckon you would if you was on the bench with

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the primaries close at hand and you had to get the nomination in order to live.”

“Well, Judge Kinsley certainly does n’t need it in order to live,” objected the merchant.

“I don’t know ’bout that—eh, boys?” responded his host, addressing the rest of the table. “The Judge had a pretty fair clientage when he went on the bench, but he was forty-five then, and it’s no joke to begin practicin’ law at fifty-five, without a dollar in the world and a good-sized family to support. Kinsley knows he ain’t so all-fired popular, and he’s gittin’ nervous. The slate’ll be made up inside of a month now, and he’s jist *got* to be on it. I reckon maybe *I’d* stand on my head and wave my legs in the air onct a day if I was in his boots.”

“Is any one else trying for the nomination, Pete?” inquired Brundage.

The proprietor removed his spectacles and, turning toward the window, carefully inspected the lenses.

“Don’t ask me,” he responded, innocently.

The State’s Attorney laughed.

“Don’t ask *you*—you old fraud!” he exclaimed.

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"If there's any political slate made up in Fraser County without your knowing it, I'm mightily mistaken. Who is the Judge afraid of, Pete?"

The old man smiled and began polishing his glasses.

"I don't know as he's afraid of anybody in particular, Mr. Brundage," he responded over his shoulder. "But there's always candidates for a good job, if you don't crowd 'em out, and Kinsley's for keepin' his elbows spread."

"Well, the whole system is rottenly wrong, I say," interposed Mr. Torrens. "Judges ought to be appointed for life or during good behavior. That's the only way to place them beyond the reach of politics or any other influence. England had to learn that, and her judges have the entire confidence of the people. Until we do something like that in this country we'll never have a proper administration of justice."

"Hope you'll live till you see it, sir," laughed Foster. "Hello, Poinder," he continued, as Gedney's counsel appeared at the door. "All primed and loaded for the Resurrectionist, old man?"

The lawyer smiled and waved a general greet-

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ing to the company, as he took his place at the table.

"Yes, sir. It'll be 'stand and deliver' this time," he responded. "By the way, Pete," he continued, "do you mind sending some coffee and toast up to Mr. Gedney? He does n't feel like coming down to breakfast. Hello, Brother Corning! What are you doing with all those documents? You look as though you were going to bury your opponents with papers."

"I am if you don't monopolize the court," responded the youth. "Are you sure your case will go on, sir?"

"Sure as shooting."

"How long will you take?"

"Well, the facts are very simple, but when Dunham once gets started it's hard to stop him short of a week."

"Better not let the Judge know that, Poinder," warned Watkins.

"Why not?"

"Because this is his busy season down at the Forks. He cut the proceedings pretty short yes-

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terday to get an early train, and I imagine he can use all his spare time between now and election day."

"By the way," inquired Brundage, "what's your friend Dunham's politics, Dick?"

Mr. Poinder reached forward and speared a roll with his fork.

"Can't you guess, Tom?" he responded. "You don't suppose the Supply Company would deliberately retain one of the opposition to conduct its case before a partisan like Kinsley? No, sir. Dunham professes the same political faith as the Judge, and he used to stand pretty high in the inner councils of his party. But, fortunately, it's *our* party too, for we're all of the same persuasion, so there won't be any politics in this case. . . . What say, Corning?" he continued, as the young man paused beside him on his way from the room. "Yes, my boy. It's perfectly safe as far as I can see. Let your witnesses go for a couple of days anyway, and then you can judge the situation. . . . Now, Zeb, don't pay any attention to these gentlemen of leisure, but devote yourself exclu-

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sively to me. Coffee, oatmeal, rolls, beefsteak, bacon, eggs, and cakes will do. I'm nervous and have n't any appetite this morning."

"Say, Pete, if he ever gets really hungry, make me your Receiver in Bankruptcy—will you?" drawled Brundage, rising as he spoke.

"On the principle of 'After me—the Deluge?'" suggested Poinder.

"Yes, I'm afraid there'll be nothing left but water after you're satisfied," retorted his friend. "What have you got there, Ellen?" he continued, addressing the waitress. "The mail? Well, don't let Mr. Poinder see it. He'll mistake the post-bag for a nose-bag and eat up all your letters."

The State's Attorney slipped from the room as he spoke, and his victim joined in the general laugh, as Ellen, giving him a suspiciously wide berth, handed the mail-bag to her employer.

All conversation ceased as the guests became absorbed in their letters, and Mr. Poinder, dividing his attention between his mail and his breakfast, did not observe that the others had left the table until he looked up and found himself alone



"The mail? Well, don't let Mr. Poinder see it."

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with the proprietor, who was gazing at him with a curious expression on his face.

“Well, Pete, what ’s the matter?” he inquired.

The old man ran a finger around the inside of his collarless shirt-band as though it was choking him.

“I dunno as anything is, Mr. Poinder,” he replied. “But you allowed a while ago that there wuz no politics in my old friend Gedney’s case. Did you really mean that?”

The lawyer nodded.

“How can there be?” he queried. “We ’re all of the same party, and Kinsley understands the situation thoroughly.”

“You mean he knows that Dave Gedney will be ruined if his case ain’t tried this term,” assented the veteran. “But if it *is* tried, maybe the Judge’s chances of a renomination might be ruined. Have you thought about that?”

Mr. Poinder leaned forward on the table and looked squarely into the speaker’s eyes.

“Come, Pete,” he began, “what are you driving at?”

“Can’t you see through a millstone with a hole

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in it?" growled the old man. "You said this city fellow, Wallace Dunham, was a pretty active worker in politics, and we know he came here yesterday by way of the Forks. Well, how do you know he and Peck ain't been takin' a hand in local politics for their client's health?"

The lawyer pushed his chair back and threw up his hands in an attitude of mock despair.

"Good Lord, Pete! You might as well kill me as scare me to death!" he exclaimed. "You're getting as nervous as Gedney and shying at shadows. Come over to the court in about an hour and I'll show you that there is n't any politics—or anything else in this case. I've met the Resurrectionist before and know all his little tricks and ways."

Mr. Poinder gathered up his letters and moved toward the door as he spoke, but for some moments the old man remained seated, apparently lost in thought. Then he slowly rose and began clearing the table.

"Ain't no politics in this case—ain't there?" he muttered to himself. "Well, if there ain't, it'll be the first good chance I've seen missed in Fraser

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County since I've been in the game, and I've been in it a pretty long time. A pretty—long—time."

CHAPTER VI

TAKEN BY SURPRISE

“Expect the unexpected and cultivate resourcefulness if you would not fear surprise.”

Axioms of Strategy.

ON fine mornings the approach to the courthouse was almost as popular a resort for the legal fraternity as the lobby of the Reeve House was at night. But when Peter Reeve emerged from the dining-room, umbrella in hand, and gazed out of the rain-splashed windows of the empty lobby, he found the village green almost equally deserted. Evidently the inclemency of the weather and the demand for seats had driven the crowd to seek an early shelter in the little one-story brick building which housed the Circuit Court. So, after studying the dismal prospect for a while, the proprietor walked slowly back to the office desk, laid aside his umbrella, and, entering

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his private room, seated himself before the telephone. For a few moments he sat with his hand resting idly on the instrument, and then, lifting the receiver, called up a number in Crosby's Forks, and, partially closing his door, began a low-toned talk. Then in rapid succession he rang up other local numbers, holding a brief, spirited conversation with each of those who answered his call, and he was still busy on the wire when the sound of a neighboring church clock warned him to mutter a hasty good-by and sent him hurrying toward the court.

Every seat in the bare, low-ceilinged room was occupied as he pushed pantingly through the doors, but Mr. Brundage secured a place for him by dislodging a clerk. The Judge was not yet upon the bench, but at the counsel's table sat Mr. Poinder, David Gedney, and his son, with half a dozen witnesses behind them, and a great mass of books and papers methodically arranged on the table for immediate use. Peter Reeve gazed closely at his old friend, but Gedney was apparently none the worse for his night's experience, and as he sat chatting unconcernedly with his counsel he seemed to be in

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better spirits than most of those about him. Indeed, the audience, as a whole, appeared strangely ill at ease. Ordinarily the court-room fairly hummed with conversation, but now there was scarcely a whisper to be heard, and the spectators fidgeted in their seats, constantly turning with expectant glances toward the door. For a time the host of the Reeve House attributed this strained atmosphere to the tardiness of the Judge, but as he scanned the room more closely he suddenly realized what was troubling its occupants, and plucked Mr. Brundage by the sleeve.

"Where's the Supply Company people?" he whispered.

The State's Attorney shrugged his shoulders.

The old man stared at him with open-mouthed astonishment.

"Ain't Lawyer Peck nor the Dunham man turned up yet?" he demanded.

"Not a sign of them," answered Brundage. "I guess Brother Dunham is n't used to our early country hours, and the Judge is arranging things to suit him. These delicate compliments to city counsel are all right, I suppose, but we ought to be

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warned of them beforehand. I could have slept another hour this morning and—”

A general movement in the rear of the room interrupted the speaker, and, turning, he observed the subject of his remarks entering the door, preceded by Mr. Artemus Peck. Wallace Dunham's huge form appeared even more bulky in the little court-room than it had in the hotel lobby on the previous evening; and his high silk hat, fur-lined overcoat, and chamois gloves created an even greater sensation. He seemed perfectly at home, however, and, passing directly to the counsel's table, recognized Mr. Poinder, who rose to greet him. As the two opponents stood conversing, the spectators watched them with silent fascination, as though momentarily expecting some dramatic development. But when the court crier, rapping for order on the panels of the bench, announced the advent of the Judge, there was an audible relaxing of the tension. Some one hastily provided chairs for the distinguished counsel and his associate, and the room was again hushed as the Hon. Jacob Kinsley emerged from his chambers. Wallace Dunham was the

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only person who rose at the entrance of the Judge, for Fraser County was not accustomed to even the most ordinary exhibitions of deference for the Bench.

Indeed, the action of the visiting jurist occasioned a titter throughout the court-room, and the Judge, visibly embarrassed, mumbled his customary greeting to the audience more rapidly than usual, and straightway plunged into the business of the calendar.

“No. 1. The Farm Supply Company against Gedney.”

“Ready!”

There was a note of challenge in Richard Poinder’s voice as he ripped out his response, but there was no answering expression on Dunham’s hard face as he rose to reply.

“If the Court please,” he began, with pompous deliberation. “My associate informs me that he is precluded by a stipulation from asking an adjournment of this case. But before we proceed I venture to crave the indulgence of your Honor for a moment. I was retained for the plaintiff by telegraph yesterday; started for

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Belo within two hours: arrived here last evening, and have been in consultation with my associate ever since. I realize, however, that your Honor would not be justified in showing us any consideration on that account, and it is not as counsel for the plaintiff that I obtrude the facts that I have mentioned upon your Honor's attention. It is rather as a friend of the Court and in the interests of justice that I speak, because although I have not yet been able to make a thorough examination into the facts of this case, I have learned enough to convince me that a settlement is the only proper solution of the controversy, and that it is perfectly susceptible of such an adjustment. I feel it my duty, therefore, as an officer of the court, to apprise your Honor of my conclusion, so that if it shall appear to you that a delay of twenty-four hours *now* may perhaps save years of legal strife, you may take the appropriate action. I myself, however, make no application for postponement, abiding strictly by the terms of my associate's stipulation. Indeed if my suggestion does not meet with the entire approval of the Court I shall be ready to proceed at

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once, merely regretting the failure of my well-meant efforts to expedite justice.”

There was a ring of earnestness in the eminent advocate's suave appeal, and more than one in the rapt audience nodded approvingly as he resumed his seat. The Judge, too, seemed impressed with his evident fairness, for there was a note of approbation in his voice as he addressed the defendant's counsel.

“Well, Mr. Poinder,” he began, “what do you say?”

“I request, your Honor, to call a jury and proceed at once to the trial of this case,” snapped the attorney.

Even those who knew Richard Poinder best were startled at the curt, almost harsh rejection of his opponent's advance, and Judge Kinsley looked as though he was a bit ashamed of the brusque manners of his Bar.

“In view of Mr. Dunham's statement, Mr. Poinder,” he observed, “do you not think it might be wise to suspend proceedings until there has been at least an attempt at an amicable settlement?”

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A shade of annoyance crossed Poinder's face as he rose to reply. He delayed a moment, silent, to make sure of outward composure.

"No, sir, I do not," he asserted, positively. "My learned friend, whose disinterested motives impel him to make this eleventh-hour plea for peace, knows precisely on what terms he can avoid the strife he deplores. His client is the aggressor. It began this litigation and it can end it at any moment. Let us have no more nonsense. Your Honor has long been familiar with the whole situation. After a desperate fight we are at the top of the calendar at last, and I decline to recognize any flag of truce which will cause us to yield our place."

The Judge glanced at Dunham as Poinder sat down, and the counsel for the Supply Company, completely ignoring his opponent's presence, slowly rose, and, removing his eyeglasses, addressed the Bench in a confidential, almost patronizing, tone.

"In fairness to the Court," he observed, "perhaps I ought to have advised your Honor that, should the trial of this case actually *begin*, a set-

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tlement will be quite impracticable. I therefore suggest—”

“Mr. Dunham, how long will you take to present your case?” interrupted the Judge.

“About a week, I think, sir.”

The Judge frowned, but nodded comprehendingly, and, taking up the calendar-sheet, studied it with marked deliberation, leaning back in his chair, his elbow resting on one of its arms and a pencil poised against his upper lip. Every eye in the room watched him intently, but he appeared oblivious of the spectators, though once or twice he shoved his spectacles back on his forehead and gazed abstractedly over the room. At last he laid aside his paper, and, removing his spectacles, addressed the defendant's counsel.

“Mr. Poinder,” he began, “I incline to the opinion that Mr. Dunham's suggestion should prevail. If a settlement of this case is possible, it should be attempted. Considering the condition of the calendar and the fact that we are nearing the close of this term, I am loth to precipitate a lengthy trial which may be avoided by a delay of twenty-four hours.”

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David Gedney had risen excitedly with the evident intention of addressing the Court as the Judge ceased, but Mr. Poinder, catching sight of his flushed face, checked him before he could utter a word, and then calmly turned to the Bench.

"If your Honor will impanel a jury now," he answered, "so that we will be actually on trial and hold our place on the calendar, I will consent to postpone further proceedings until this afternoon."

The Judge frowned and shook his head at this proposition, but his face showed that it was as unexpected as it was unwelcome, and his response was unmistakably impatient.

"We have not sufficient talesmen to admit of impaneling juries and reserving them to meet the convenience of counsel," he asserted. "You know that, Mr. Poinder."

"And should a jury *be* impaneled," Dunham reminded him, "no settlement will be possible. If this case begins, it will go on," he added, significantly.

"And if we leave it to you to say when it shall

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begin, it will never go on!" retorted Poinder, angrily. "Your Honor, it is high time the plaintiff ceased to trifle with the dignity of this Court. You will observe that counsel are here without witnesses, as though assured of compliance with their demands, and—"

"What do you mean by that, sir?" interrupted Kinsley, instantly bristling.

"I mean that my professional courtesy has been abused and is being traded upon," the lawyer responded suavely, but with a sharp glance at the Bench. "They say that they will not settle if they are forced to trial now. Why? I will tell you. It is because their case will collapse the moment the Court demands their proofs. I say they are unprepared now. I assert that they have not a single witness under subpoena at this moment, and challenge them to refute that charge."

"Not being in the habit of unmasking my batteries before the event, I decline to waste words on such a boyish proposition," responded Dunham, hotly.



"Then I demand a trial now!" exclaimed Poinder

Gordon Cavan

TAKEN BY SURPRISE

"Then I demand a trial now!" exclaimed Poinder.

"Demand?" repeated the Judge, reprovingly. "Let me remind you, Mr. Poinder, that this matter rests entirely with the discretion of the Court, which in this case—"

"Has been already exercised by your Honor's order setting down this cause peremptorily for to-day," interrupted the lawyer.

"In view of the new facts, however," persisted the Judge, but before he could proceed Mr. Poinder again interrupted.

"New *facts*, your Honor?" he exclaimed. "Where are the new facts? There is nothing here but another new *fiction*. My client has not invited any proposition of settlement, and does not desire any adjournment to consider the same. He comes to this forum and demands a prompt public hearing of the matters in dispute. This he is entitled to, not as a matter of favor, but as a matter of right, and I therefore demand it in his name."

A faint ripple of applause started in the rear of the room, but instantly ceased as the Judge

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crashed his gavel on the desk and glared angrily in the direction of the sound.

"Your client is not the only one who has rights in this court, Mr. Ponder," he observed. "There are other cases waiting to be tried, and I do not intend to devote the remaining days of this term, unnecessarily, to the trial of one cause. The plaintiff's counsel has frankly stated his belief that he can adjust this whole controversy by suspending the proceedings for a day, and I am of the opinion that he should have the opportunity to do so."

An intensely silent moment intervened.

"I respectfully submit that your Honor mistakes the function of the Court," commented Ponder. "It is not within your province to facilitate compromises or adjustments against the will of either party."

Judge Kinsley flushed at the fearless criticism, and, leaning forward on his desk, pointed a threatening finger at the speaker.

"The Court requires no instruction from counsel as to its duties," he snapped. "You will please restrain your zeal, sir! In the judgment

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of the Bench a day's adjournment in this case will best serve the ends of justice, and—"

"The ends of justice! *This* is the end of justice!"

Gedney leaped to his feet as he roared out the words, but Mr. Poinder caught him as he struggled toward the judicial desk, and literally forced him back into his chair.

"Keep silent, or we're ruined!" he whispered, but before he could pacify the excited man the Judge had adjourned the case until the next day and was busy calling the balance of the calendar. But this ceremony merely served to verify young Corning's prophecy, for with the unexpected postponement of the first case the whole calendar broke and not another cause was ready. Indeed, before Mr. Poinder's party had gathered their books and papers together the court-room was well-nigh deserted. At the door, however, Old Man Reeve was awaiting them with Zeb, and as the latter took Mr. Gedney under his umbrella and, partially supporting him, led the way toward the hotel, the proprietor laid a detaining hand on Mr. Poinder's arm.

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"Well, Counselor," he observed, "do you still think there's no politics in this case?"

The lawyer shrugged his shoulders:

"I don't see where, Pete," he responded. "But something is the matter with Kinsley. What do you suppose it is?"

"I don't *suppose*; I know," muttered the veteran. "It's just as I told you. Peck and Dunham are threatening to put a candidate in the field against him. And they'll do it too, if he ain't good."

The lawyer gazed incredulously at the speaker.

"How do you know?" he demanded.

"Heard it from the Forks over the telephone," asserted the old man. "They've been workin' it up for a week, and they've picked out a popular candidate, too," he added with a sly smile.

"Who is he?"

"Somebody they don't want the Judge to be too friendly with just now, of course. Can't you guess? No? Well, my son, it's y-o-u—you!"

Mr. Poinder stared dumfoundedly at his in-

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formant for a moment, and then his face gradually relaxed in a smile.

"This is a joke, is n't it, Pete?" he inquired.

The proprietor of the Reeve House glanced toward the hotel through whose doors Mr. Gedney was at that moment passing.

"It's no joke for *him*, I reckon," he responded, jerking his thumb toward the retreating figure, "and it's a joke that's likely to last as long as this term does. Say, Mr. Poinder," he went on, "I reckon there was *one* trick of your friend the Resurrectionist you did n't know, eh?"

The lawyer nodded meditatively.

"We live and learn, Pete," he admitted.

The old man eyed him narrowly for a moment and then chuckled softly to himself.

"Well, Counselor," he drawled, "do you want to learn another trick worth two of hisn?"

The lawyer glanced with a grim smile at the shrewd, kindly face of his questioner.

"I'm not above it," he answered. "But the best move I can think of is to let Kinsley know that it's all a game and that I've no intention of running against him. Is that it?"

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"Nope," responded the old man. "If you did that, maybe they 'd scare him with some other candidate. No, sir. You've got to take a hand in their own game and beat 'em at it. Let Kinsley know that if he don't try your case this term *you* will run against him—and run against him for fair! So long as you 're in the field they can't combine on another candidate in this county, and Kinsley knows it. But ef he don't, I've got the delegates to prove it to him—*got 'em right in my pocket*, Counselor."

Mr. Poinder gazed at the speaker with unfeigned admiration.

"Peter Reeve," he exclaimed, "I take off my hat to you! You ought be in public life. You 'd surely be a king in the diplomatic world."

The veteran shook his head protestingly.

"I ruther keep the Reeve House," he responded simply.

CHAPTER VII

A SHORT CAUSE

“My cause is called and that long look’d-for day
Is still incumbered by some new delay.”

Dryden.

THE postponement of Gedney’s case did not take the bar of Fraser County entirely by surprise. Indeed, the general opinion seemed to be that Mr. Poinder had done extremely well in forcing his opponent to content himself with a delay of four-and-twenty hours. It was not often that Wallace Dunham left a court-room on as short a tether as that, and if further obstruction was his aim, he had, in the judgment of the experts, met with a sharp repulse. But, grateful to local pride as this conclusion was, it could not be accepted by the lobby of the Reeve House without prolonged debate. Nothing ever was accepted by that unofficial forum without the fullest possible discussion, but on this occasion

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it decided with some unanimity that the Resurrectionist was merely "sparring for position" and intended promptly to take up the gage of battle which Richard Pinder had so defiantly flung down.

That the wish was father to this thought could not be denied, but no familiar of the Reeve House would have claimed that its wish was inspired solely by personal regard for Pinder or his distracted client. The Farm Supply Company vs. Gedney & Son promised to provide the local arena with a battle royal of the law. This was its sole interest for the legal fraternity and revealed the open secret of its hope that the morrow would not see another spoke in Gedney's wheel. No such opportunity for observing the tactics of a distinguished trial counsel from the city had occurred in Belo for years, and the entire Bar had breathed a sigh of relief when Pinder had refused to yield his place on the calendar and virtually forced the court to suspend proceedings for the day in order to grant the Resurrectionist the brief adjournment he had asked.

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It was under these circumstances that a few hours later Foster fairly startled the lobby with a well-nigh incomprehensible remark.

"I wish young Corning joy with his case this afternoon," he observed, addressing the assembled company in general.

It would have been impossible for the speaker to frame a more inviting opening, but, curious as his hearers were to understand the meaning of his ominous declaration, it elicited no encouraging response. On the contrary, those who were reading screened themselves behind their newspapers in silent protest against any violation of the unwritten law of the Reeve House which prohibited conversation for the hour following the noon-day meal.

Foster was perfectly familiar with this rule. Indeed, no one but a fledgling member of the Bar could plead ignorance of any of the traditions of the lobby, and Foster was no tyro. On this occasion, however, he calmly disregarded the obvious disapproval of his associates and repeated his remark, glancing hopefully toward the group around the table at which Old Man Reeve

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and Brundage were playing their daily game of checkers. Not a head turned in his direction; so, after a pause, he rose from his chair and, standing with his back to the big wood stove, attempted another advance.

"A madder set of jurymen I never laid eyes on," he commented. "Picking out the unprejudiced from that lot will be harder than finding golf balls in a daisy field."

One of the readers tossed aside his newspaper with unmistakable impatience, and, tipping back his chair against the wall, began filling his pipe.

"I'd rather sit in court and be paid for listening to chatter than endure it elsewhere for nothing," he muttered.

The tattoo of applause which greeted this caustic reproof lowered several newspaper shields and Foster acknowledged it with a gracious wave of his hand.

"A hit; a palpable hit, Brother Warren!" he responded, affably. "But the trouble with your reasoning is that the jurors on this Circuit are paid by the term and not by the case; so when the calendar breaks, as it did this morning, and there's

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every prospect of a holiday, they don't feel that they 're exactly making money when a youngster like Corning pops up with a plea for an afternoon session."

An afternoon session? What did that mean? Every man in the room knew that not a case had been ready when the Resurrectionist had received his eleventh-hour respite, but, though they looked inquiringly at each other, no one voiced the necessary question. Finally Old Man Reeve paused with his hand on a checker and peered over his gold-rimmed spectacles at the speaker.

"What are you talking 'bout, Mr. Foster?" he inquired. "I was to court this forenoon, and the hull calendar split to pieces after Gedney's case went off."

"That 's what I thought, Pete," responded the lawyer, "and the talesmen thought so too; but just as Kinsley was leaving the bench that young fool Corning hopped up with a hard luck story about a short cause and a lady client from a distant town who could be ready for trial in an hour or so. Of course I supposed his Honor would bite the boy's head off before he 'd finished talk-

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ing, but he did n't; and when little Hixon, who represented the other side, joined in the plea, he actually countermanded the adjournment for the day and ordered a recess until two o'clock. By Jove, I'll never forget the faces of the jurymen at that announcement! Of all the wet hens I ever saw they were the maddest, and if Corning can get twelve of them to agree with him on any subject he's more of a wizard than I fancy."

Perhaps it was well for Corning that he did not enter the lobby at that moment, for his reception at the hands of his legal brethren would certainly have hurt his self-respect. Resentment and disgust were depicted in almost every face, and even Old Man Reeve's good-natured countenance was clouded. For a while no one spoke, and then Parton crushed his newspaper into a ball and hurled it at the stove.

"Gol darn all such meddling pups!" he muttered. "That's good-by to to-morrow's program, I reckon, and with only a few days left in this term we may as well go home."

"Not necessarily," objected Plimpton. "Corning and Hixon may finish their fight this after-

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noon. You said it was a short cause, did n't you, Foster?"

The lawyer laughed and, hooking a chair toward him with his foot, sat down.

"A short cause!" he sniffed. "I know these simple, short causes! They're always so crowded with fine points of law that the facts get smothered, and after days of argument the jury stays out all night and ends in disagreeing. That'll be the finish of this case, too, I'd like to bet, with all the jurors fighting mad before they enter the box."

"Did any of them protest?"

"Protest? No! What good would it have done to protest? But two of them did ask to be excused, and, Kinsley being in one of his ugliest moods, they got thoroughly snubbed for their pains. In fact, I've never heard his Honor berate anybody worse than he did those two unfortunates, and after he left the bench that secretary of his, Abner Saltus, snarled and snapped at them because they ventured to ask a few simple questions about the probable length of the term. If those two fellows don't find some way of evading jury

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duty before this court meets again, I miss my mark."

"They're fools if they don't," commented Brundage from the checker table. "The way we handle jurors is enough to sicken any self-respecting citizen. Instead of regarding them as judges of the facts who are entitled to something of the respect and consideration that is accorded a judge of the law, we treat them like criminals, unrepresented by counsel, whom every whippersnapper of an official is free to insult!—Foster, you've ruined Pete's game with this talk-fest.—That was a fatal move of yours, old man. I've got you absolutely. Want to struggle any longer?"

The proprietor knocked the ashes out of his pipe without removing his eyes from the board, and his face, which had remained uncommonly grim, gradually resumed its humorous expression.

"Reckon I'll wriggle around for a spell," he drawled. "War n't it you that wuz tellin' me, Mr. Brundage, 'bout the city jury that got stuck between floors in an elevator when retiring for their verdict?"

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"I remember something like that," interposed one of the onlookers. "What happened to 'em, Tom?"

"Why, after they'd been cooped up for a while they took a ballot and agreed on a verdict," responded the prosecutor. "That just suited the Judge, who wanted to get away, so he held court on the stairs surrounding the cage, had the verdict recorded, and went home."

"Leaving the twelve good men and true in the cage, I suppose," laughed Foster.

"Of course," responded the State's Attorney. "Nobody cared what happened to them. But they were revenged in a way, for the fellow that lost the case appealed on the ground that the Code required the jury to retire to a '*convenient and private room*,' and the learned reviewing court decided that an elevator was n't a private room and was damned inconvenient. So the verdict was upset. Hello, Pete! what are you doing?"

"Just forcing you to take one and lose two," responded the Old Man, with a chuckle. "Go on conversin'. It's quite a help."

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"I'll get you yet, you old fox!" retorted his opponent, joining in the general laugh. "There! Now get out of that trap if you can.—What's Corning's case about, Foster?"

"About slandering a house, as far as I could make out," responded the lawyer.

"Slandering a house? Who ever heard of such a thing?"

Foster shrugged his shoulders.

"Well, that's what I'd call it," he responded. "Anyway, the fight is between two women, one of whom accuses the other of spreading reports that her house is haunted, with the result that she has n't been able to rent it for years."

"Wow!" exclaimed Plimpton. "There's all sorts of possibilities in that case, and—"

"There's a whole library of law points and a week's trial in it," interrupted Parton. "I told you it meant good-by to Gedney's case for this term, and I start home to-night."

Plimpton glanced at the clock, and, rising, took his raincoat from the hook.

"I'm with you, Parton," he announced. "Let's go down to the depot, see about the

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trains, and take in a bit of this 'house-slander' action on the way back. We've got plenty of time, and, the more I think of it, the better I like that case. It's just stuffed full of opportunities, and, with Corning and Hixon trying out their horns on it, it ought to be as good as a play. Come on, boys," he continued, addressing the others. "Let's meet at the court-house and get some fun out of this rotten wet day."

There was no immediate response to this suggestion, but after Plimpton had departed the lobby gradually thinned until Old Man Reeve and his opponent found themselves its sole remaining occupants. For a few moments they continued their game in silence, and then paused, as though by mutual consent.

CHAPTER VIII

LEAVE TO INTERVENE

"All is fair in love and law. In love and *war* you say? Well, is n't law a sort of civil war?"

Colline.

"WELL, Pete," began the State's Attorney, as he glanced up from the board, "you 're in the double corner again and I don't seem to have any more luck in catching you than poor old Gedney has in corralling the Supply people. I thought Poinder had Dunham caught this time for sure, but it looks as though the Resurrectionist had slipped into a sort of double corner himself. By Jove, practising law is rather like playing checkers, is n't it?"

The old man blew some scatterings from his tobacco pouch onto the floor and shook his head.

"Nope," he answered. "Everything's *above* board in *this* game."

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He tapped the table as he spoke, and, rasping a match across it, proceeded to relight his pipe.

"That's saying a bit too much or a bit too little, is n't it, Pete?" inquired the lawyer, after a pause.

The veteran leaned forward, and, resting his elbows on the table, with his chin in his hands, stared steadily at his questioner.

"Maybe it is, Mr. Brundage," he reflected. "Maybe it is. But you're a good friend of Mr. Poinder's, counselor, so I'm going to take a chance and tell you something more. What'd you say if I wuz to tell you that Dunham worked that adjournment this morning by playin' politics with Judge Kinsley?"

Brundage smiled.

"I'd say that the silly season in politics had arrived rather early this year," he responded.

"All right, counselor. I'm not going into the details of it, but you know the Judge is dead-set on gettin' renominated at the primaries next month, and I've a notion that the Supply people have kinder intimated that he'll need their help.

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Anyway, there's been some real or make-believe opposition to him down at Crosby's Forks, and the candidate they're talkin' up is Poinder."

The State's Attorney gave a low whistle.

"You're no more surprised than Mr. Poinder wuz, counselor," continued his companion. "He wuz for seein' the Judge at once and tellin' him the hull thing wuz a fake. But I reckoned to hoist 'em with their own petard this forenoon by fixin' it so's they couldn't name any one but Kinsley *or* him. So I told him—"

"I see," interrupted the lawyer. "He was to let Kinsley understand that he'd really fight for the nomination if Gedney's case should be delayed. By Jiminy, that was pretty shrewd, Pete!"

The old man shook his head.

"Maybe it wuz a bit too shrewd, Mr. Brundage," he responded, gloomily. "I ain't so all-fired sure they *wuz* playin' politics, which is a mighty dangerous game. But, if they wuz, I reckon we're a day late in findin' it out. Anyway, they've quit it, and now they're trying cross-tag."



"Nope," Pete answered. "Everything's *above* board in *this* game."

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The Prosecutor pushed back his chair with a puzzled expression on his face.

"Cross-tag!" he exclaimed. "I don't know what you're talking about, Pete. It's all too much for me."

"'Tain't neither," asserted his host. "It's plain as day. We were goin' to tag Kinsley. and I reckon they knew it. Well, they've crossed us with Corning's case. As long as that's blocking the way they don't have to ask nothin' of Kinsley and he don't have to do nothin'. There ain't no danger in that, is there?"

There was a moment's pause, and then Brundage nodded comprehendingly.

"I see," he responded. "You think they got '*leave to intervene*,' so to speak. But would a man like the Resurrectionist risk letting that young fool Corning into his confidence sufficiently to work such a scheme?"

The host of the Reeve House gave a snort of contempt.

"Good Lord, no!" he responded; "and 'twarn't necessary. Hixon and that little rat

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Peck, who pettifogs for the Supply folks, are thick as thieves, ain't they? Well, I reckon they fixed it up between 'em on a hint from the city shark, and the Corning boy has played right into their hands."

The Prosecutor nodded again.

"By Jove, I believe you're right, Pete!" he muttered. "I thought I knew all the tricks for staving off the day of reckoning, but side-tracking your opponent for a day and then blocking the calendar with a 'short cause' which'll outlast the term is a new one to me. What does Poinder think about it?"

"He does n't know it's happened. He went over to the Forks directly after court, you remember, and—"

"Of course. And Gedney?"

"He's upstairs. This morning pretty nigh killed him, and this afternoon'll finish the job, unless—"

The old man paused, and, taking his watch from his pocket, carefully compared it with the clock.

"Unless what, Pete?"

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"Unless you want to come to the rescue, counselor."

Brundage stared at his host with amused astonishment.

"Me?" he repeated, smilingly. "What can I do?"

"Well," drawled the proprietor, "you're a friend of Mr. Poinder's, and I thought maybe you'd play the game for him till he got back."

"Game? What game, Pete?"

"Cross-tag, Mr. Brundage. They've shoved Corning over to save themselves, have n't they? Then he's the lad to tag."

The lawyer gazed at the shrewd face confronting him, as though debating the wisdom of inviting further confidences along this line, but the old man's smile was reassuring.

"I'd be glad enough to help Poinder," he responded, slowly, "but I'm not much good at games, Pete, and worse at guessing riddles. What do you want me to do?"

"I want you to act as counsel for Brother Corning, sir."

The State's Attorney threw up his hands and

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burst out laughing, but his companion stopped him with a gesture.

"I'm not joking, Mr. Brundage," he protested, earnestly. "A boy like Corning might drag on that case of hisn forever, but you could finish it before nightfall. He's nervous as a cat, and he'd jump at the chance of letting you handle it for him if you volunteered to do it. Now don't get huffy, counselor," he continued, as he noted a shadow on the Prosecutor's face. "I ain't for suggestin' that you *throw* his case. I wuz a sort of honorary member of this Bar before you wuz much more 'n born, sir. I know what's what and—"

"Of course you do, Pete," interrupted the official, cordially, "and I'll back you up—sight unseen. Now you've got some sort of a plan in your head, I know. Let's hear it."

The old man nodded, glanced at the clock, and, picking up his hat from the floor, jerked his thumb toward the door.

"We ain't got much time for talkin', Mr. Brundage," he announced. "Get your hat, sir, and I'll explain as we walk over to the court."

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You remember what Mr. Foster wuz tellin' us about the talesmen on this jury panel? Mad as hops, he claimed they wuz. Well, I wuz thinkin' that—"

He paused suddenly, observing that Zeb Turner had entered the lobby with an armful of wood, and then continued calmly.

"I wuz thinkin' it was 'bout time for you to look at the stove, Zeb. Keep her goin', but not much more. This room heats up something terrible when it's crowded, and it'll be warm to-night. By the way, boy," he went on, casually, "how many of them jurymen did we feed to-day? Twenty-eight? Sure it warn't more? All right. I'm over to the court-house, if anybody's lookin' for me. Come along, Mr. Brundage, right under my umbrella—plenty room for two."

As the door closed Zeb deposited his wood on the floor, and, stepping to the window, followed the retreating figures across the village green until they disappeared within the court-house. Then he turned to his work again with a puzzled expression on his face.

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“Shucks!” he muttered to himself. “Anything that makes Mr. Brundage laugh like that must be a zip of a story. Wonder why the old man wouldn’t let me hear it? He’s gittin’ terrible fussy these days. Wantin’ to *count* the jurors! Ain’t he got the year’s contract for feedin’ ’em? What difference would it make if there was twenty-eight or twenty-nine? Lordy, but I wisht I was to court this afternoon.”

CHAPTER IX

CHALLENGES FOR CAUSE

“Force first made conquest and that conquest, law,
Till Superstition taught the tyrant awe,
Then shared the tyranny—then lent it aid.”

Pope.

ZEB'S wish was no exception to the general rule of his desires. He always wanted to be in court, for Circuit week was the greatest educational opportunity of his life, and he bitterly begrudged every session that he missed. On this particular occasion, however, he gained rather more than he lost, for, with his work completed, he had time before supper to hear Mr. Foster give a group of stay-at-homes (among whom, in all innocence, he included Old Man Reeve) a full report of everything that had happened at the court during the afternoon.

“‘Let’s take the first twelve men that enter

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the box'—That was the bait Brundage carelessly threw out to Hixon, Pete, and, Lord! you ought to have seen the little trout rise to it!"

The small but attentive audience gathered in the proprietor's private office smiled appreciatively at Foster's opening words.

"I never knew it to fail with small fry," chuckled Warren. "It always makes 'em suspect that the whole panel is packed with your personal friends."

"It is n't necessary to be subtle with a youngster like Hixon," commented Bigelow. "Did you ever know a tenderfoot to miss an opportunity for examining a jury? Why, it's the breath of their nostrils! Of course the boy refused."

"Certainly," responded Foster, "and Tom did n't seem surprised. 'Very well,' he assented, with a shrug of his shoulders. 'You go ahead and question them first. Maybe your examination will do for both of us.' This patronizing indifference evidently worried the youngster a bit, but he soon recovered and began to have the time of his life. Dear me, but he was funny as he swaggered in front of the jury box! And his

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cross-examination of its occupants was a parody of all the worst methods that have ever been exhibited at this Bar. Somebody had evidently told him that the Resurrectionist was in court and he played to him as though he was on the stage."

Old Man Reeve, perched on the bookkeeper's stool, ran a finger inside the neck of his collarless shirt as though it was choking him.

"It must have been sickening," he muttered, innocently.

Foster smiled at the enthroned picture of disgust.

"You've survived the sight of a good many puppies in court, Pete," he responded, "and there were compensations for this one. Indeed, the fact that he was playing to an empty house as far as Brundage was concerned struck me as supremely comic. Every now and again he'd interrupt his torrent of searching questions by swinging around on his opponent with some such ultimatum as, '*Will you consent that this talesman be excused, sir, or shall I challenge him?*' and Tom would either answer, 'I beg your

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pardon?' as though suddenly awakened, or murmur 'Consent,' without even looking up.

"After a while, however, Kinsley began to take an interest in the game, and when Hixon next attempted to retire a juror by consent the Judge nearly bowled him off his feet. '*Since when have you usurped the functions of this Court, young gentleman?*' he snarled. '*I beg to remind you that I have a little something to say as to whether or not jurors shall be excused. Challenge-for-cause overruled! Proceed, sir, if you please.*'

"Well, you know what happens to the novice after that kind of dressing down, and of course the more humble and apologetic Hixon became, the more Kinsley kicked and bullied him, with the result that by the time he began questioning the talesmen on their belief in superstitions he was in a running fight with his Honor all the time. In vain he explained to the Court that he didn't want superstitious men on the jury because they would believe in haunted houses and take anything that his client might have said about her neighbor's house entirely too seriously.

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"Kinsley utterly refused to consider this as a disqualification for any juryman, but when Hixon began to empty the box by resorting to his *peremptory* challenges the talesmen evidently saw the point, for they all took to exaggerating their beliefs in order to effect their escape. Then the Hon. Jacob got after them with a big stick, and the way he ridiculed, browbeat, and walloped all the superstition out of them was something to see. In fact, he soon had them so tamed that every man Jack of 'em seemed eager to serve on the case, and Hixon sat down with his six precious challenges all used up and his nerves and temper equally exhausted."

"This all sounds familiar to me," yawned Warren, "but not particularly entertaining, even for a wet afternoon. Eh, Pete?"

"Well, I would n't have missed it for worlds," continued Foster. "Zeb, my boy, is that the cracker-box you're sitting on? Well, let's look inside it. I'm hungry as a bear. Come over here if you want to sit down—plenty of room on this bench. Floor good enough for you? All right. Say, Pete, you've seen Tom Brundage

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try enough cases to know his 'sleepy method,' have n't you? Acts as though he was only half awake, you know, and was missing most of the points in the case? Well, he outdid himself this afternoon, and if I had n't known him like a book I'd have sworn that he really *was* asleep while Kinsley and Hixon were thrashing out the superstition question. Anyway, when his turn to examine the jury arrived he began going over the same old ground. For a while his inquiries were addressed to the jury as a whole, asking if any of them believed in this or that or the other superstition. By Jove, I don't know where he ever heard of all the queer notions and beliefs he referred to, but some of them were so funny that he had us convulsed with laughter half the time. It was not all mere fooling, however, for he drew out such strange admissions from two of the talesmen that Kinsley was induced to excuse them, and four times he emptied a seat in the box, without the Judge's help, by resorting to a peremptory challenge. Then somebody in the crowd handed me a bit of paper with a big 3 scrawled on it and asked me to pass it up to him. I did so, but, after

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glancing at it, he continued along the same line as before, with the result that the Court ruled steadily against him and he was finally forced to use one of his two remaining challenges.

"Well, as you can imagine, his Honor had been growing pretty restive during this performance but he did n't dare ride rough-shod over a well-known member of the Bar like Brundage, and it was n't until Tom started to re-examine juror No. 6 for about the sixth time that the storm broke.

"This gentleman happened to be one of the two that Kinsley had sent to the right-about in the morning, and he had evidently acquired a wholesome respect for our friend on the bench, and was n't looking for trouble with him. Anyway, he would n't admit to a superstitious prejudice of any sort. But Brundage kept hammering away at him and finally asked him if he believed there could be such a thing as a haunted house. Then his Honor intervened.

" 'Now that will do, counselor!' he snapped. 'This man says he has no superstitions. That includes haunted houses and everything else.

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Don't waste any more time. The juror is perfectly qualified.'

" 'I think not, your Honor,' Brundage retorted, calmly. 'Suppose you were told,' he continued, addressing the talesman, 'suppose you were told that ghosts had been seen in the bedrooms of this house and that queer, unearthly whispers were audible in it at nights—do you mean to tell me that such stories would have no effect upon your mind?' "

" 'Absolutely none,' says the fellow.

" 'Do you mean to tell the Court—' persisted Brundage, but before he could finish the question Kinsley fell upon him tooth and nail.

" 'Stop this, counselor!' he shouted, 'or I'll commit you for contempt! I overrule your challenge and forbid you to proceed.'

" 'By George, boys, you could have heard a pin drop in the court at that minute, but Brundage never turned a hair.

" 'Your Honor has not yet heard the grounds of my challenge,' he responded, coolly, 'and I'm sure you will not overrule it when you do. I admit that this gentleman is superstition-proof,

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but that is precisely the reason I question his fitness for this case. If, as he says, he has no patience with superstition and does not understand how any sensible person could believe such tales, is it possible that he can give my client a fair hearing in this case? No, sir; he will say that those slanderous stories of her house being haunted could not have done her any harm. He will insist that nobody could believe them, and that her property must have remained untenanted for some very different reason.'

"By Jove, you ought to have seen the Judge's face at that complete change in the attack. He was purple with wrath and nearly split his gavel when the audience broke into a laugh. But, though he fairly pelted the unfortunate juror with questions to prove him qualified, the man evidently grasped the situation and took a malicious pleasure in thwarting him. Anyway, he not only stuck to his claim that nobody but a fool would believe in a haunted house, but actually volunteered the information that it would be far better to leave a house vacant than to rent it to a fool. That finished him, of course, and he was

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no sooner excused than Brundage took his last peremptory challenge. By actual count, boys, that was the seventeenth time the jury box had been depleted. Well, the clerk stuck his hand into the wheel to draw the name of another talesman, but he scraped and clawed around without producing anything. Then he looked nervously over at the bench, and—”

“I bet I know what had happened!” interrupted Zeb Turner, half starting from his seat on the floor. “That thar paper with the 3 on it meant that there was only three jurors left, and he’d used ’em up, so there war n’t another name left in the wheel!”

Foster nodded.

“You win, Zeb,” he answered over his shoulder. “The whole panel was exhausted.”

“With the jury still one man short,” laughed Warren. “Kinsley must have been in a pleasant frame of mind!”

“I’ve seen him in a happier mood,” asserted Foster. “Hixon wanted to go on with eleven jurors, but Corning would n’t hear of it. So they live to fight another day.”

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"You mean their case is back on the calendar?"

"Yes, but at the foot of it. It *was* a short cause, after all, you see, and Gedney keeps the right of way."

Warren tossed his hat toward the ceiling and, catching it, chuckled to himself.

"I think Brundage ought to have the thanks of the Bar," he whispered to his neighbor.

"Look out!" admonished his companion, with a glance at Zeb. "Start a story like that, and it'll be all over the shop before you know it. Well, Pete," he continued, "I suppose you're feeling pretty sore about missing an event of this kind. How did you let it happen?"

The Old Man shook his head, but before he could answer Zeb Turner interposed.

"Say, Mr. Reeve," he drawled, "I wondered why in thunder you wanted to know just how many jurymen wuz to dinner this noon. But, gosh! I'd never guessed you wuz keepin' tabs on 'em for Mr. Brundage! Wuz it you that passed the paper up to him in court, sir?"

CHAPTER X

IN OPEN COURT

“Why should not Conscience have vacation
As well as other courts o’ th’ nation?
Have equal power to adjourn,
Appoint appearance and return?

Butler.

HAD it not been for the words “Judge’s Chambers” plainly printed on its door, a stranger entering the judicial sanctum of the Circuit Court at Belo might have suspected that he had accidentally strayed into the official junk shop of the county seat. Certainly the place looked more like a lumber-room than a private office, and every session of the court added to the discomfort of those for whose accommodation it had been designed. But none of the visiting jurists ever ventured to disturb even the dust

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upon its shelves for fear of destroying something of value belonging to an associate, and the natural result was an accumulation of material which taxed the limit of its capacity.

Great bundles of papers were tumbled in crazy heaps upon the floor; columns of the *Congressional Record* reared drunkenly toward the ceiling; stacks of stenographic minutes crowned the bookcases; maps, blue-prints, surveys, photographs, broken umbrellas, odd overshoes, models, wrecked typewriters, discarded hats, bits of machinery, and other exhibits from long-forgotten lawsuits occupied every nook and corner; the shelves sagged under the weight of ponderous legal tomes in flaking and peeling sheepskin covers, showing here and there a gap (like a missing tooth) filled with a wedge of yellowing documents; the roll-top desk was almost hidden behind a rampart of papers weakened in spots by the bursting of elastic bands; the floor was littered with sheets spilled from the loose piles of official stationery; and in the midst of all this welter, with barely more than elbow-room, sat the Hon. Jacob Kinsley, supreme exponent of the law, for

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the time being, in Fraser County, and Abner Saltus, his confidential clerk.

Political necessity is notorious for all sorts of strange alliances, but it probably never paired two more hopelessly uncongenial human beings than the Judge and his right-hand man, and years of daily contact had failed to create any bond of sympathy between them. In Kinsley's eyes Saltus was nothing but a coarse-grained political hack whom Fate, in the guise of party expediency, had forced upon him; and to Saltus his Honor was merely a pompous outsider who gave himself superior airs on the strength of a political accident. Opportunities for correcting these early impressions of each other had not been lacking to either man. That the Judge had neglected more than one opportunity for removing his obnoxious subordinate was no secret to the clerk—that the clerk had again and again saved the judicial reputation of his chief by detecting legal “jokers” in the papers submitted for his signature was fully comprehended by the Judge. But neither the generosity of the one nor the watch-dog virtues of the other served to effect anything more than

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an armed truce, between them until the term for which Kinsley had been elected was drawing to a close. Then self-interest had prompted Saltus to make the Judge's cause his own; but while his Honor did not underestimate the value of this support, he inwardly resented having anything in common with the ferret-faced limb of the law who had chosen to squire him in the fight for his official life.

That he would ever desire a renomination had seemed impossible to Kinsley during the early years of his career upon the bench. Indeed, he had often been heard to remark in those days that he would "*far rather be a lawyer who voluntarily appeared in court against one opponent at a time than a judge who was forced to practise law against all the Bar at once.*" But that bitter cynicism dated from the period when the unscrupulous element of the profession and his political enemies had attempted to blast his judicial career and had succeeded in unnerving him to such an extent that for months he had never put his pen to paper without fearing the explosion of some legal mine. This rough initiation into his

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new duties had at first utterly disgusted him with public service, but the ugly necessity of guarding himself from the tricks of the trade soon resulted in his complete estrangement from the Bar, and he began to take a sort of fierce joy in wielding the vast powers at his command. Then he gradually realized that the expiration of his term would find him professionally isolated, clientless, and well advanced in age, and before long the very thought of surrendering his mighty office filled him with a sickly dread. It was not surprising, therefore, that he had kept in close touch with politics as a means of insuring the retention of his post; and this ambition had, little by little, become the all-absorbing passion of his life. Indeed, every word he had uttered and every step he had taken for years had been carefully considered with a view to his coming candidacy, and no mariner ever watched his barometer more keenly than Kinsley watched the trend of public opinion in the press.

It was this engrossing task that occupied him and his subordinate as they sat in the disordered chambers before the opening of court on the morn-

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ing set for the trial of Gedney's case. There was only one available chair in the room, and Kinsley occupied this, while Saltus perched on the seat of a mowing-machine which had recently figured in a jury case. Between them, in a small clearing on the rubbish-strewn desk, lay a bundle of newspaper clippings from which they helped themselves at will, rapidly scanning each slip before laying it aside or throwing it on the already littered floor. For a time neither man paused in his work or uttered a comment of any kind. Even when Saltus at last thrust one of his slips toward his chief, he did so without speaking or looking up, and the Judge took the paper mechanically without raising his eyes from his own reading. Then he brushed the clipping he had been perusing to the floor, glanced at the half-column of fine print that had been handed him, and frowned impatiently.

"Well, what 's all this?" he demanded sharply.

Saltus rolled an unlighted cigar from one side of his mouth to the other, crushed the slip he was reading into a pellet, flicked it away and picked up another.

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"It's the same old thing," he answered, resuming his reading. "A lot of drool about Gedney's case. He's evidently going to try it in the newspapers, since he can't do it in the court. That's the third reference to it I've come across this morning, and I'll bet there's more of 'em in this batch. By Jiminy! I win already for here's another. It's a bit shorter than the one you've got. Want to hear it?"

The Judge nodded.

"What is it from?" he inquired, indolently.

"Crosby Forks' *Record*," responded the clerk. "Some fellow who signs himself 'An Observer' is addressing the editor.

"*'Sir,' he writes, 'as an illustration of the administration of justice in this county, let me call your attention to the case of the Farmers' Supply Co. vs. Gedney & Son now on the Circuit calendar at Belo. This cause is the outgrowth of a trade war with the history of which most people in our community are tolerably familiar. I do not profess to know the merits of the controversy, but it is apparent to everybody that the corporation which brought the suit and presumably de-*

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sired to submit its rights to the court is not anxious to proceed to trial, while the other side is straining every nerve to gain a public hearing. I know what I am talking about, for I have attended the last five sessions of the court and this case has been on the calendar each term, only to be adjourned at the instance of the plaintiff and against the protest of the defendants. Yesterday I took occasion to examine the records in the County Clerk's office, and I find that during the past year there have been eight motions and three appeals argued in this case on technical points of pleading and practice in no way involving the facts in dispute, and, as far as I can judge, the sole purpose of these manœuvres has been to subject the defendants to annoyance and delay. I hold no brief for those gentlemen, with whom I am not personally acquainted, but if the law can be juggled in this fashion no business man is safe, for he is liable to be haled into court and have his business interfered with, if not ruined, by any unscrupulous rival with sufficient resources to drag him through a long litigation. Such mockeries of justice will effect a revolution in our form of gov-

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ernment if we suffer them to continue much longer.' "

Saltus laid aside the clipping and glanced inquiringly at his auditor.

"I reckon that 'Observer' used his ears as well as his eyes," he commented.

"But not his brains," snapped the Judge. "If that is meant for an attack on me, it 's wide of its mark. Anybody but a fool should know that the law is made *by* the lawyers and *for* the lawyers. It 's the business of a judge to administer the law as he finds it and not as he might wish it to be."

There was a note of defiant finality in Kinsley's voice, but his subordinate did not appear to be particularly impressed.

"Um! Seems to me I 've heard something like that before," he droned, and for a few moments he continued skimming the sheaf of clippings in his hands. Then he rapidly extracted half a dozen of the slips and shoved them toward his chief.

"They 're squibbing us for fair on this thing, Judge," he commented.

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Kinsley inwardly winced at the word "us," but he merely shrugged his shoulders.

"It's a matter of indifference to me," he observed as he glanced at the items. "The case is at the head of to-day's calendar, and it will be either settled or tried this morning. So don't waste time on what will soon be ancient history. This is a very interesting review of my record," he continued. "You see, it tabulates my equity cases and my jury cases separately, proving that I have been less frequently reversed in the higher courts than any other judge in each class of work. My percentages show up even better this way, I think."

"Um!"

Saltus glanced disinterestedly at the proffered clipping and shot a swift side-glance at the speaker.

"Do you mean what you said just now, Judge?" he queried, as he bit the end off his cigar and groped in his pocket for a match, which he found only after several futile attempts.

Kinsley frowned impatiently.

"Mean what?" he demanded.

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"That you 're going to try Gedney's case this morning?"

"Yes, if it is n't settled."

The clerk whistled a few notes of a popular song, slipped from his perch, and, lighting his cigar, stood silently puffing it as he leaned against the desk watching his chief.

"You have n't forgotten what I told you was happening down at the Forks day before yesterday, have you, Judge?" he inquired, after a pause.

Kinsley raised his head, and, pushing up his spectacles, pressed his fingers to his eyes for a moment as though reflecting.

"You mean about the Supply Company people taking an interest in the primaries," he observed. "Well, what of it?"

Saltus's eyes narrowed ominously.

"What of it?" he repeated. "Say, Judge, can't you and me talk man-talk? . . . Oh, well, never mind!" he continued, impatiently, as he noted Kinsley's haughty glance. "Play the game every way you like, but don't let 's misunderstand signals. Listen to this item from the *Record*:

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“ ‘The Honorable Wallace Dunham, familiarly known to the metropolitan Bar as the Resurrectionist, stopped at the Forks last Wednesday on his way to the Circuit Court at Belo, where he is to represent the Farmers’ Supply Company in its case against Gedney & Son, whose interests are in charge of Mr. Richard Poinder of this county. An exciting legal battle is expected when these two champions meet.’ ”

His Honor readjusted his spectacles as the clerk paused, and, picking up another clipping, resumed his reading.

“That is not exactly what you would call news, is it?” he inquired, indulgently, whimsically.

Saltus shook his head.

“No, it’s corroboration of what I told you two days ago,” he retorted, sharply. “You know Wallace Dunham’s position in the party as well as I do, and when the Supply people get him to stay over a night at the Forks it means business. I tell you they don’t intend to have the Gedney case tried this term, and if it is they’re going to give you the fight of your life.

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Oh, I know you don't like plain talk, Judge, but what 's the sense of mincing matters?"

An angry flush spread over Kinsley's sallow countenance.

"Let us drop the subject, if you please, Mr. Saltus," he remarked. "I've told you a great many times that I will not listen to kitchen gossip. Here 's another original analysis of my record," he continued hastily. "It 's rather clever, I think. The writer has examined all the opinions of the appellate courts, and states that I have been reversed only six times on questions involving the admission or exclusion of evidence."

He held out a clipping as he spoke, but Saltus made no motion to take it.

"Kitchen gossip?" he repeated, harking back to the offensive words. "You know of your own knowledge, Judge, that Artemus Peck, the Supply people's attorney, has been hanging around headquarters for weeks, and what I'm telling you comes from a young fellow I met there not long ago who turns out to be a sort of confidential secretary for the Resurrectionist himself. Could I get it any straighter?"

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Kinsley twisted his swing chair toward the desk, and, clearing a small space for his official letter pad, began writing a note.

"You tell your informant," he directed over his shoulder, "that any one who attempts to influence the disposition of a case on Judge Kinsley's calendar had best look to his own safety. But don't bring me his answer," he added. "I don't want to hear anything more about this matter."

Saltus nodded sneeringly, and, retiring to his seat, began sorting his papers into convenient piles.

"Then, of course, you don't want to hear what a hole those city people have got themselves into by playing politics in the country," he remarked, and waited for an invitation to proceed.

But his Honor continued his correspondence without displaying the slightest curiosity, and his indifference obviously nettled the clerk.

"Maybe you think it's more 'kitchen gossip,' " he observed, "and it *is* almost too funny to be true. But the whole thing in a nutshell is that the opposition which the Supply folks have been stirring up against you has run away with it by

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concentrating on Richard Poinder as the most available candidate."

The Judge stopped writing and half turned in his chair.

"Think of them sticking their fingers into our pie and picking out Gedney's attorney as the plum!" continued Saltus, with a chuckle. "It sounds impossible, but it's a positive fact."

His Honor swung toward the desk again and dipped his pen in the ink.

"Yes, I heard that a day or two ago," he responded, quietly. "It's very amusing."

For a moment the clerk regarded his superior with the deeply injured air of one who finds his news is already known and his surprise a failure. Then he nodded knowingly at the broad back opposed to him.

"It's a good joke all right as long as nobody takes it too seriously," he remarked, significantly. "But when I was at the Reeve House last night I overheard Old Man Reeve bet Foster ten dollars that Poinder would fight for the nomination tooth and nail if Gedney's case were n't tried this term. I guess you've heard that too—have n't you,

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Judge?" he continued, malevolently, "and that's why you've decided to try the case this morning. Eh?"

Kinsley swung slowly toward the speaker.

"Have you been drinking?" he demanded, sternly.

Saltus laughed.

"No, I've been thinking," he retorted coolly. "What's the use of our trying to fool each other, Judge? Let's get down to business and talk right out in meeting. Here's the Supply people getting ready to dump our apple-cart if you try their case, and Poinder threatening to do the same or worse if you *don't* try it. That's a pretty raw deal for us. But one thing's certain. You can't please both parties. You've got to work with the one that's least dangerous, and I know what I'm talking about when I tell you to stick to the Supply people and let Poinder go to thunder. All his newspaper squibbing and opposition talk is meant to scare you into trying his case, Judge. He would n't take the nomination if it was handed to him on a silver plate, let alone fight for it. He might make a pass at running

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just to force your hand, but he would n't give up a good practice and retire to the Bench just to spite you. And Old Man Reeve knows that, too. He made that bet and let me overhear it for your benefit. That was a good trick when it was new, but this ain't my first campaign, and you can take it from me that it 's all part of the same big bluff. But there 's no nonsense about the Supply people. They mean business, and they 'll camp on your trail till they get you if you give 'em trouble. This ain't their only lawsuit. They want to know who 's who on the Bench, and if you 've got it in for them they 'll double-cross you no matter what it costs. No, sir, don't you try to plow them under; you listen to me—"

"Don't you think I've listened to you about long enough, Mr. Saltus?"

The clerk shrugged his shoulders and stared offensively at the speaker.

"I don't know, Judge," he responded, insolently. "I've a notion that Poinder and his squibbing have got on your nerves and given you a hunch that public opinion demands the trial of this Gedney case."

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"It has certainly been too long on the calendar of my Court, sir."

Saltus shot a menacing glance at the speaker.

"Oh, you think so, do you," he sneered. "Well, you didn't think that way yesterday morning when you adjourned it to suit the Resurrectionist, nor yesterday afternoon when Corning's case threatened to block the calendar for the rest of the term. But if you've changed your opinion since then and have decided—"

"I've decided nothing, sir," interrupted Kinsley, petulantly. "My decisions are made in open court and nowhere else. When the matter comes up there I shall dispose of it then and not until then. Do you understand?"

Saltus nodded.

"Of course," he assented, with a cunning leer. "But I thought you said you'd made up your mind to try the case this morning, and that kinder scared me. Deciding things in open court is all right, Judge, but thinking them over in private is looking before you're leaped on, and I've given you the facts."

"To which I shall pay not the slightest atten-

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tion, Mr. Saltus," retorted the Judge, decisively. "Meanwhile I advise you, sir, to confine yourself strictly to your own business," he continued, warningly.

The crafty expression of the clerk's face instantly deepened to an angry scowl.

"My own business!" he snarled. "Since when has your nomination been none of my business, Judge? Ain't we in the same boat? And do you suppose I'm going to keep my mouth shut when I see the Supply people getting ready to scuttle the ship right under my eyes? Well, I'm not built that way!"

Kinsley rose and calmly faced the speaker.

"You are suffering from an excess of zeal, sir," he observed, judicially. "And an excess of zeal at this crisis will merely serve to injure you and—and your friends. Is there anything in the clip-pings you've examined that requires my immediate attention?"

Saltus glowered at his chief for a moment in silence and then shook his head with a surly frown.

"Guess not," he muttered.

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“Then please put these in my scrap-book. I’m going over to the hotel for a while, but I’ll be back in time to open court at the usual hour.”

His Honor laid a number of slips on the desk shelf as he spoke, and picking up his hat, strode from the room.

CHAPTER XI

FOR THE SAKE OF THE RECORD

"What dotage will not Vanity maintain?
What web too weak to catch a modern brain?"

Cowper.

FOR a few moments after the door closed Sal-tus continued glaring at it in moody silence. Then he slipped down from his perch on the mowing-machine, and, seating himself in the swing chair and pulling a huge scrap-book from the revolving bookcase beside him, slammed it open with angry impatience.

"Ha!" he scoffed, as an item caught his eye. "Judge Kinsley is a 'fearless advocate' of something or other, is he? Yes, I guess not! Spunk of a rabbit's about his size. Curse you!" he muttered to the book. "I'll break you in two if you don't stay open!"

He crushed back the covers of the offending

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volume as he spoke, and, creasing the pages with his arm, glared resentfully at their contents.

. . . What was the use of keeping up these fool press notices if the Old High-Cockalorum was going to buck the Supply folks? They'd provide material for his obituary, but that's all they would be good for if he was bent on committing political suicide. Of course he had a perfect right to cut his own throat if he was fool enough to do it. But he'd have to cut other people's into the bargain, and he'd do it without giving them a thought. He always had been a selfish hog who thought the world began and ended with him. Look at the kind of piffle he stuffed this book with! "*Judge Kinsley is a great lover of fiction.*" Is he? You bet he is! Especially about himself! . . . "*Noted for his courtesy and consideration,*" indeed! Yes, consideration for himself. Up to date he'd always managed to look out for Number One pretty sharply. . . . What was the matter with him now? He'd been dead set on getting the renomination for years, and he was n't fool enough to think he could get it if he fought the Resurrectionist and his crowd. He had n't

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the spunk to fight, anyway. He'd never been anything but a looking-glass fighter and a bluffer all his life. . . . Maybe he was bluffing now? Yesterday morning he'd given the Resurrectionist a day's adjournment, and in the afternoon he'd apparently tried to block the calendar by taking up the trial of a protracted cause. That was playing the game safe just as he always played it. . . . But this morning? . . . This morning he'd evidently swung around. . . .

Saltus paused in his bitter reflections and struck the bunch of clippings with his fist.

. . . It was all this rotten squibbing nonsense that had done the business! If the old nincompoop had n't seen that stuff he would n't have lost his nerve! He was just jackass enough to get panic-stricken at a crisis and run in the wrong direction. Of course Poinder could beat him to a pulp if he really wanted to fight for the nomination, but nobody except a fool would believe that Poinder would even cross the street to get it. On the other hand, it was a hundred to one that the Supply folks would fight from the drop of the hat! Only a dare-devil would take a risk like that.

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And Kinsley was n't that kind of a devil. He never took a chance of any kind if he could help it. . . . Here was another of his favorite "record" notices, informing the great and gullible public that he had been reversed only fourteen times during his ten years upon the bench, one less in the aggregate than any other jurist in the State. If there was one of those notices in the book, there were a hundred! What fun could the old bluffer get out of collecting repetitions of that puff? His "record," indeed! You might think it really amounted to something, the way he'd nursed and coddled and played for it all these years. How could he fool himself with it? But he *did*. He thought it proved that he was a great jurist! And how had he got this wonderful "record"? Simply by tying strings to all his rulings and practising close to his chest and wabbling around so that nobody but an expert could ever get a clean-cut exception into the minutes of any trial. There were n't many experts in Fraser County, but, by Jiminy! the Resurrectionist was the king of them all and he was on deck now! He would n't do a thing to his Honor's curves, would he? Why,

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he'd bat the miserable old faker out of the box and out of his mind in about fifteen seconds! Nothing could save his precious "record" if Wallace Dunham once stepped to the plate. Nothing? . . . Nothing? . . . Well, of course, if a lot of ugly looking exceptions were taken to his rulings he might be scared. . . . And if he got scared he might . . . ?—He might try to save his beloved "record"!

Saltus's thought stopped.

. . . Was it possible that Kinsley had this crafty scheme in mind? By the Lord High Harry! That *would* be playing it "both sides and down the middle!" And it'd be safe! Absolutely safe. As safe as . . .

"Now, Mr. Saltus."

The clerk sprang to his feet as though startled from a dream, stared at the Judge for a moment, and then, quickly stuffing the clippings into his pocket, hurried to the private hallway, and, partly opening the court-room door, banged on its panels with his fists to advise the waiting public that the Honorable Jacob Kinsley was about to take his seat upon the Bench.

CHAPTER XII

PLANTING AN EXCEPTION

"What cannot be carried by frontal assault often readily yields to a flanking attack."

Axioms of Strategy

"**H**EAR ye! Hear ye! Hear ye! All-
sons - havin' - bus'ness - with - this - Circuit-
Court-held-in-an'-for-the-County-of-Fraser-draw-
near - an' - give - your-'tention - an' - you - shall-be
heard!"

Mr. Justice Kinsley slipped into his capacious chair as the crier concluded his gabbled formula, and, with a curt nod to the Bar and general public, picked up the printed calendar sheet lying before him on the official desk.

"No. 1. Farmers' Supply Co. vs. Gedney?"
he announced inquiringly.

"Ready for the defendants!"

Every one in the audience recognized the

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speaker, for Richard Poinder was widely known throughout the county, and his almost defiant response in the case at bar had long since become familiar to the court."

"I fear we must again ask your Honor for indulgence."

The Judge glanced up to find the rat-like face of Artemus Peck projected from the human background of the crowded room. There was nothing surprising in his plea. Indeed, he had uttered it so often on behalf of the Supply Company that any other reply would have startled the audience, and Kinsley was disagreeably conscious of something very like a titter as the spectators stirred and rustled in their seats. He took no notice of the sound, however, but nodded gravely at the speaker.

"It is with extreme regret that I have to announce the serious illness of my colleague in this case, your Honor," the attorney continued. "Mr. Dunham was feeling far from well yesterday when he attended court, but I hoped that he would be sufficiently recovered this morning to proceed with the trial of this cause. At the last moment,

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however, his physician has positively forbidden him to attempt it, and I have here a written certificate to that effect."

He handed a letter to the clerk as he spoke, and the official laid it upon the judicial desk, while the audience waited in breathless silence as the Judge, slowly adjusting his glasses, opened the envelope and peered at its contents. From his desk beside the rail guarding the Bench Abner Saltus glanced sharply at his chief and then allowed his gaze to wander over the room. Near the counsel's table he could see Mr. Poinder whispering earnestly to his white-haired little client, whose worn face and trembling hands showed the strained tension of his nerves, and close by them he noticed the ponderous form of Old Man Reeve. It always disquieted the clerk to encounter Peter Reeve's owl-like stare, and, quickly avoiding his gaze, he rapidly scanned the public benches. The Bar of Fraser County was certainly well represented, he reflected, as he recognized Mr. Foster and young Corning, Mr. Brundage, the State's Attorney, Dick Warren, Bob Hixon, and scores of other familiar faces. In fact, the entire popu-

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lation of Belo had apparently squeezed 'itself within the building, making it extremely difficult to single out any particular individual from the mass, and Saltus's glance traveled over the room more than once before he caught sight of the person he was seeking. Then, with an almost imperceptible signal, he turned to the Bench again just as his Honor glanced over his spectacles toward the counsel's table.

"Have you seen this, Mr. Poinder?" he inquired, indicating the paper in his hand.

"No, sir."

Gedney's counsel did not rise as he spoke, and, barely glancing in the direction of the Bench, continued his whispered consultation with his client.

"Then you 'd better look at it."

The Judge handed the paper to the clerk, but Poinder waved it aside.

"That is not necessary, your Honor," he responded, rising as he spoke. "I accept the statement of my learned adversary as to its contents, but I submit that Mr. Dunham's very regrettable indisposition affords no sufficient reason for the adjournment of this case. No one could possibly

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be more familiar with it than Mr. Peck, who has conducted it, wholly without assistance, up to within the last four and twenty hours. With able counsel present in court to represent its interest, the plaintiff has no excuse for requesting your Honor's indulgence, which I respectfully submit has already been somewhat abused. We are prepared to proceed."

Peck had risen as his opponent was speaking, but before he could address the Court Kinsley interposed.

"An adjournment was procured yesterday, Mr. Peck, to ascertain if there was not some way of settling this controversy out of court," he observed. "What was accomplished in that regard?"

"Nothing, your Honor," responded the lawyer, "because—"

"Because nothing was attempted," interrupted Poinder, significantly.

A ripple of laughter ran through the audience, which instantly subsided as Kinsley looked up sharply and reached for his gavel.

"That is a most uncalled-for insinuation," pro-

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tested Peck, with an indignant glance at his opponent. "Mr. Dunham was taken ill while he was working out his plan for adjusting the differences of the parties, and it was impossible for him to discuss the subject with Mr. Poinder's clients. That, as your Honor has perceived, is precisely the point of my pending application. I am, it is true, generally familiar with this litigation, but I am not sufficiently conversant with my colleague's scheme of settlement to present the matter to the other side. I know enough, however, to advise the Court that the interests of justice will be far better served by compromise than by continued litigation."

The Judge leaned back in his chair, and, taking up the physician's certificate, re-examined it with care.

"What have you to say, Mr. Poinder?" he inquired, as he laid it aside.

"Very little, your Honor," responded the lawyer. "I advised the Court yesterday that there was no compromise in us short of the plaintiff's unconditional surrender, and that I could not bring myself to believe that it had retained Mr.

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Dunham merely to haul down its flag. My expectations in that regard have been fully realized. No proposition of any kind has reached us from the other side, and we are one day nearer the end of the term. It is idle to waste further time or words on this subject. For more than a year we have met with nothing but vexatious obstruction and delay in this case," he continued, gazing steadily at the Bench and speaking with marked deliberation and emphasis. "So vexatious, indeed, that it has now achieved an ugly notoriety, reflecting most unfortunately upon the administration of justice in this county, and I ask your Honor to put an end to the scandalous practices which have not yet succeeded in exhausting us, but have, thus far, defeated our rights."

Peck sprang angrily to his feet as his opponent paused.

"I object to the counsel's outrageous insinuations and resent his reflections on the Bench!" he exclaimed. "If there has been any scandal in the disposition of this cause, the Court must be a party to it, for all that has been done has had the sanction of its orders. I submit that my learned ad-

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versary forgets himself in impugning the good faith of a fellow-practitioner, but he is beyond *my* censure when he calls into question the honor of the Court."

The audience fairly gasped its astonishment as the speaker paused, and Kinsley, flushing violently, rapped sharply with his gavel on the desk.

"The Court will maintain its own dignity and be the guardian of its own honor, Mr. Peck," he snapped. "You will kindly abate your zeal, sir. Have you any further reasons to advance for a continuance of this case?"

Saltus leaned forward on his desk and eagerly studied the Judge's face as his Honor uttered this ominous challenge, but his attention was almost immediately diverted to Peck, who stood confronting the Bench with an ugly scowl.

"I certainly have the gravest of reasons, your Honor," he responded. "My client, whose extensive interests in this community are a matter of common knowledge, regards the principles involved in this case as vital to the proper prosecution of its business, and if, as my opponent asserts, there is no compromise in his clients, it de-

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sires Mr. Dunham to present its contentions in person. He has made a long journey expressly for that purpose and is now on the ground, within hail of this court-room, but is temporarily prevented from appearing before you by sudden illness. Mr. Poinder does not dispute, and would not dare to dispute, the accuracy of this statement, and it should be amply sufficient to sustain my motion. I cannot believe that your Honor will force me to trial under such circumstances, or single out my client for harsh treatment at the instance of the other side."

Every tone of the attorney's voice was menacing, and his eyes never left the Judge's face as he delivered his appeal. For a moment there was absolute silence in the Court, and Saltus was not the only observer who realized that the fate of more than one person was hanging in the balance. Then Kinsley suddenly broke the tension.

"The administration of justice can take no account of the convenience of parties, or distinguish between them in any way," he announced, with tightened lips. "Before this Court every individual is on an equal footing. The defendants are

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entitled to a hearing subject to the rules and practice of the tribunal before which they have been called. That those rules and those practices have subjected them to annoyance or delay is no reason for denying such accommodation to their opponents as may to the Court seem fitting and proper in the exercise of the discretion reposed in it by law."

The speaker paused, and Saltus felt his heart leap with joy as he listened to the sonorous sentences. . . . Thank the good Lord the old fool had come to his senses before it was too late! He was a bluffer all right, but he was playing the game well. And craftily too. It would be hard to handle the matter much better than he was doing. There was n't a word of what he was saying that could n't be published on the dead-walls and . . .

"But on this occasion," proceeded his Honor, "the Court is unable to see that justice requires that the plaintiff should receive the accommodation that it seeks. One of its distinguished counsel is ill, but the other, present in court, is fully conversant with the case at bar and amply com-

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petent to protect all its interests. No hardship, therefore, is involved in the denial of its motion for a continuance. The cause is marked ready, and the clerk will call a jury forthwith."

With a muttered oath Saltus rose, and, hurriedly gathering his papers together, slipped quietly through the door behind the Bench.

"Well, you got my signal, did you? I thought you were never coming."

Saltus glared angrily at the Resurrectionist's confidential man as he stood confronting him in the private hallway.

"I came as soon as I could," retorted the visitor. "But what's the use of hurrying? The game's up now. Kinsley's done for himself and you too. What the devil could he have been thinking of?"

"It is n't what *he's* thinking but what *I'm* thinking that counts just now, my son," snapped the clerk, thrusting a bunch of papers into the speaker's hands. "See your Boss at once, give him these clippings, tell him to read 'em and hustle

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over to court and fire exceptions into the record as long as he 's got the brain to invent 'em or the breath to puff 'em out!"

The man glanced at the papers and then looked up uncomprehendingly.

"What good 'll that do?" he growled. "Dunham does n't want to try the case. He wants to delay matters and keep Gedney & Son in court and——"

"Then let him keep 'em in court!"

"How?"

"Tell him to raise law points, and more law points, and then some more of 'em, and fire exceptions into the record till he can't rest!" rattled Saltus, glancing apprehensively over his shoulder. "What 's-the-use-of-that? What 's-the-use - of-that?" he whispered, fiercely. "Go and ask the Resurrectionist, you chattering parrot! Did you never see a judicial wobbler dance to legal piping? Well, Kinsley 's a wobbler with a record to sustain. Hustle and put your Boss wise, you fool, if you want to keep your job!"

CHAPTER XIII

DELIBERATE JUSTICE

"Quiet, calm deliberation
Disentangles many a knot."

Gilbert.

"**T**HE jury will now retire to consider their verdict."

A fat court attendant arose as Judge Kinsley made his announcement and, waddling across the floor, flung open the door of the jury-box with a wheezed "This way, gentlemen!"

For a moment the twelve citizens charged with deciding the case of "The Farm Supply Company vs. Gedney & Son" stared at the speaker like captive animals hesitating to exchange their customary quarters for the freedom of a new and unfamiliar cage. Then the foreman, a lanky farmer in rubber boots, began groping under his chair for his hat, and the others, acting on his example, slowly gathered together their belongings.

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The closely-packed spectators in the dingy court-room watched the scene in silent fascination. Up to that moment the occupants of the jury-box had been almost forgotten factors in the three days' desperate fighting which had marked the case at bar. The hand-to-hand struggle between the counsel had been so grimly absorbing that the lay public had had neither eyes nor ears for those who were finally to judge the issues and decide the cause. In the main it had been Richard Pinder of counsel for the defense who had dominated the stage, and Fraser County, hailing him as its legal champion against all invaders from the outside world, had barely refrained from giving open expression to its delight in his success. But Wallace Dunham had frequently swept everything before him with terrifying force and had never emerged from an encounter without having inflicted serious damage on his foe. And the fighting had been almost incessant. At times Judge Kinsley had loomed to the front, and, parting the grappling combatants with rough hand, had forced a temporary truce, and more than once the room had been hushed with dread expectancy as a wit-

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ness and a lawyer had stood face to face in a duel to the death.

But now all these figures had faded and the group in the jury-box had become the chief actors in the most bitter controversy ever waged in the Circuit Court at Belo. Indeed when the last pair of gloves had been picked up and the last missing pencil recovered and they passed in straggling procession down the center aisle with their arms full of hats, overcoats, overshoes and umbrellas, like tenants escaping from a fire, every head in the room moved with them and every eye followed them until they disappeared through the entrance into the corridor. In fact, the whole audience continued mutely staring in the same direction until the sound of a closing door reached their ears, when they settled back in their seats again, relieving the tension with a general relaxing rustle and stir.

Even then, however, no one left the court and the silence remained unbroken save for the whispering of Abner Saltus, who had draped himself on the front of the Bench, and, with his eyes on the audience, was addressing his Honor behind a

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screening hand. From an end seat on the center aisle Old Man Reeve strove to attract his attention for no particular reason except that it always amused him to embarrass the Judge's confidential clerk with a steady stare and make him shift his gaze. But the man continued his conversation undisturbed, and the host of the Reeve House finally desisted and pulling out his watch, held it so that Eph Bisland, who sat beside him, could note the time. The young farmer compared it with his own watch and nodded.

"That's 'bout right," he whispered. "Three thirty-one by mine. What of it, Pete?"

"Betcher they'll be back here in less 'n fifteen minutes," explained the old man, with a jerk of his thumb toward the jury-room.

His companion shook his head.

"Not ef they're as slow at ballotin' as they wuz at leavin' the box," he asserted.

The hotel proprietor smiled.

"They'd have found a verdict without leavin' it at all ef old Wobble-Belly had n't herded 'em out of it," he whispered, confidently, but his neighbor was not apparently convinced.

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"I ain't sure 'bout that, Pete," he drawled.

"I ain't, either," responded the old man, cheerily. "Nothin 's sure 'bout a jury. But I'll make you a sportin' proposition, Eph," he continued, chuckling. "I'll give you a dollar for every minute they stay out after a quarter t' four ef you 'll pay me at the same rate for every minute it's short of that when you see 'em agin."

The young man slowly stroked his chin as he gazed at the veteran's smiling countenance.

"Reckon it's lucky fer you I ain't a bettin' man, Pete," he declared, after a pause. "But ef you're hankerin' to gamble, maybe what's-his-name over there—the big guy they call 'the Resurrectionist,' would accommodate you. *He* don't seem to think it's worth his while to wait for 'em."

He bobbed his head towards the counsel's table as he spoke, and the old man, following his glance, observed that Wallace Dunham had risen and was being helped into his fur coat by a youthful clerk. Indeed, it was soon apparent that not only he, but Artemus Peck, and all the plain-

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tiff's other supporters intended to retire, for they were gathering their books and papers together and otherwise preparing for immediate departure. Their adversaries at the opposite table watched them with evident amusement, and something in Mr. Poinder's expression evidently challenged the Resurrectionist, for he stepped close to him as he drew on his chamois gloves.

"Have n't you had about enough of this parrot's cage, Poinder?" he inquired in a low, patronizing tone. "I'll lend you a clerk to receive the verdict, if you have n't got one."

Gedney's counsel smiled provokingly.

"Thank you," he responded in a penetrating drawl, "but *I* can afford to wait. Don't let me detain you, however. He who fights and runs away may live to fight another day, you know, and that's your best chance of surviving this verdict."

The faint sound of laughter which greeted this sally seemed to anger the metropolitan jurist, for he turned away abruptly.

"I'll leave a boy to bring me your scalp," he snapped over his shoulder.

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“Good!” retorted Poinder. “But if he comes no nearer getting it than you have, Dunham, he’ll return empty handed. However, I reckon any boy could do better.”

Again the ripple of laughter started, and this time it spread from bench to bench until the whole audience was chuckling as the Resurrectionist and his retinue made their way toward the door. Then the spectators suddenly relapsed into silence, and the room remained as quiet as a church till a neighboring clock tolled the hour of four, when Judge Kinsley, rising from his chair, retired to his chambers through the door behind the Bench.

Instantly a buzz of conversation started, swelling gradually to a perfect babel as the crowd poured forth its pent-up opinions, hopes, and fears concerning the jury and the probable meaning of its delayed return. For a time Mr. Gedney and his son held a sort of impromptu reception, in which hand-shaking, congratulations, and good wishes were mingled with headshaking, well-meant sympathy, and ominous questions, until Mr. Poinder began to look anxiously at the

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flushed face of his gray-haired client and wonder if he ought not to advise him to return to the hotel. But the moment he suggested this the old gentleman turned on him with a burst of nervous impatience that might have ended in a scene had not Peter Reeve interposed with the comforting laugh which never failed to soothe his old-time friend. Meanwhile, the crowd had been slowly thinning, until by half-past four only a handful of people remained in the room, and seeing that Mr. Gedney was engaged in conferring with a business friend, the host of the Reeve House motioned his counsel aside.

"What do you make of this, Mr. Poinder?" he whispered. "Think it's a disagreement?"

The lawyer shrugged his shoulders.

"What do you ask me for, Pete?" he replied. "You saw juries in this county before I was much more than born. What do *you* think it means?"

The old man glanced apprehensively at Gedney.

"I offered to give Eph Bisland a dollar for every minute they stayed out after a quarter of

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four," he responded, behind his hand. "That wuz my opinion then. But now—well, it might be an all-night job—or worse."

His companion nodded.

"Can't you persuade him to go back to the hotel?" he inquired, indicating his client. "He 's been busy talking and has n't realized how the time is slipping by; but when he does—"

"When he does he 'll worry less right here than he would anywhere else," interrupted Reeve. "I'd like mighty well to stay by him, but you know the house is full er people, and—"

"I understand," assented Poinder. "Just tell Zeb to get the fire lighted in his room and put a flask of brandy where I can find it quickly if he needs it. He 's got one? All right; but I've a notion that Kinsley won't keep this shop open much longer, and if he orders a sealed verdict—"

He paused as Old Man Reeve gave a low whistle.

"A sealed verdict?" he repeated. "Gosh! I'd clean forgotten that play. Don't you let him make it, Mr. Poinder. It'd be an outrage to keep Dave in suspense all night."

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Mr. Poinder drew a cigar from his pocket and rolled it thoughtfully between his fingers.

"I'd rather have a verdict that I could n't open till to-morrow morning than a disagreement to-night," he reflected. "But orders of that kind are apt to make the jurors agree, and Kinsley is n't as keen about having them agree as I wish he was. Don't you worry about sealed verdicts, Pete."

With a nod and a smile, the host of the Reeve House moved toward the door, opened it, and then paused with his hand on the knob. The daylight was almost gone, and the dismal court was entirely deserted save for the little group shrouded in shadow at the further end. For a moment the old man peered into the gloom with an anxious expression on his usually calm face. "I wonder," he muttered to himself. "I wonder ef that really wuz a flask I felt in Dave's hip pocket. . . . Never knew him to carry a gun, but—"

His fingers slipped from the knob and the door closed with a slam. Mr. Gedney instantly leaped up, staring wildly about him.

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"Lights—lights here!" he cried out fiercely.
"The jury's coming—the jury's—"

Then he paused, and, glancing from Poinder to his son and across the vacant court-room, sank slowly into his chair.

"That was funny," he murmured, weakly.
"I don't know what—what startled me so. Of course they have n't come in yet. It's early—much too early. Is n't it, Mr. Poinder? You can't expect to have such a big case—such a long case—decided in a minute. . . . Can you, Pete? . . . Oh, has Pete gone? . . ."

Old Man Reeve slipped quietly out of the door, and, closing it softly, confronted the fat court attendant mounting guard on a cane chair at the foot of the little circular iron staircase leading to the jury-room.

"What d' you suppose is the matter with 'em, John?" he inquired with an upward gesture.

"Reckon they've gone to sleep, Pete," responded the official. "I ain't heard 's much as a pin drop since I've been settin' here."

The old man shook some tobacco into his pipe and slowly packed it in with his thumb.

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"Humph!" he reflected. "That 's a heap better than havin' 'em fightin' like cats and dogs, ain't it? But I kinder thought they wuz goin' to agree quick."

"Me, too."

"Well, so long, John."

"So long, Pete."

As the storm door closed behind him, the veteran jury expert struck a match and stood lost in thought for some moments, mechanically puffing at his pipe and watching the lights in his hostelry across the village green. Then he shook his head and slowly started down the court-house steps.

"Ain't quarrelin' or arguing or talkin' at all," he mumbled. "Just one of them settin', starin'-at-one-another, dumb, obstinate kinds—I know 'em! It 's a disagreement sure."

CHAPTER XIV

JUDGES OF THE FACTS

“Some men are born to feast and not to fight,
Whose sluggish minds e’en in fair honor’s field
Still on their dinner turn.”

Baillie.

THE lobby of the Reeve House was uncomfortably crowded when supper was announced, for the widely advertised Gedney case had brought a surprising number of visitors to the scene, and the Bar of Fraser County, which usually reigned supreme in the old hotel, for once found itself in the minority. In fact, the charmed circle around the wood-stove included so many strangers that the legal brethren hurried into the dining-room at the first stroke of the bell, and returned after a scanty meal to forestall any further invasion of their rights, with the result that by half-past six they had regained complete

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possession of their favorite camping ground. There was one layman, however, for whom the profession was always ready to make room; and as Old Man Reeve skirted the ring of chairs on his way to answer a telephone call in the office he was bombarded with invitations to sit down and discuss the latest news from the front. But for once in his life the old gentleman was not sociably inclined, and passed by with a glum shake of his head.

"He's taking this case pretty hard," commented Corning, as the old man disappeared.

Brundage leaned forward and knocked the ashes out of his pipe by tapping it against the stove.

"Why should n't he?" he demanded. "If your best and oldest friend was threatened with ruin would you feel like cracking jokes or whooping it up much?"

The young man flushed.

"Of course not," he protested. "But there's no danger of Gedney's being beaten. The worst that can happen is a disagreement, and that's always a sort of victory for a defendant."

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"Not always," corrected the State's Attorney. "The Supply people have got Gedney all tied up with this litigation. That's why they've fought so hard to keep him from getting a trial. A disagreement would be as bad as a defeat for him. His business would be ruined long before he could get another trial, which is a beautiful commentary on the way we administer justice in this land."

The speaker paused, and, answering a signal, tossed his tobacco-pouch into an outstretched hand.

"Now don't let's begin yapping at the evils of the law," protested Thompson.

"Why not?" demanded Warren. "There are no laymen present. The longer we put up with such practices—"

"Well, it's a case of 'put up or shut up,' is n't it?" retorted Thompson. "There's more room outside the profession, you know, Warren, than there is in it."

"Tut-tut-tut!" laughed Brundage. "We'll have to turn this circle into a prize-ring if everybody's going to pepper his words. Did any of

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you fellows have the slightest idea that the jury would be out as long as this?" he continued. "I did n't."

"There's no use trying to guess what a jury will do," asserted Plimpton. "A friend of mine had a promissory note case not long ago, in which the jury stayed out for six hours and then returned a verdict of 'Guilty in the second degree,' whatever that meant."

"Was that in a prohibition town?" laughed Bigelow.

"I can't say it was," replied Plimpton. "But I would n't be a bit surprised if the Resurrectionist had this jury so mixed up with all his motions, exceptions, and requests-to-charge that they don't know whether to condemn Gedney to death or merely to fine him for being alive."

"Well, he certainly had Kinsley on the run," agreed Foster. "I bet the Honorable Jacob is glad to get a breathing spell. Did you notice the way Dunham rushed him from the very start, making him rule on some point or other about once a minute and never giving him time to catch his second wind? I never saw a judge as scared and

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generally wild as he was at the end of the first day."

Warren nodded.

"Maybe there was method in his madness," he suggested. "It struck me that he was deliberately trying to make a mistrial of it by provoking Poinder into demanding the withdrawal of a juror. What 's the matter, Pete?" he continued, as the proprietor reëntered the lobby and started hurriedly toward the kitchen.

"Matter enough!" growled the old man. "The jury 's coming here for supper! On five minutes' notice, too! Is n't that just like Jake Kinsley? He 's got 'bout 's much sense as—well, ef he had any sense at all he would n't let them fellers have a smell of anything to eat as long 's they disagreed. Starvin' and not stuffin' 'em is what 'd bring 'em 'round!"

The veteran kicked the swing door open as he spoke and disappeared into the kitchen, leaving the lobby smiling but silent.

"That 's the first time I 've seen Pete on the rampage for a good many years," commented Warren, after a pause. "There 's a whole lot of

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truth, though, in his theory," he continued, but stopped abruptly as the door opened, and David Gedney entered, leaning heavily on his son's arm and staring straight before him like a blind man. Mr. Poinder followed with a clerk carrying books and papers, and the lobby silently watched the little procession as it moved across the room.

At the staircase Mr. Gedney glanced over his shoulder to see if his counsel was following him and then started upward, moving with painful slowness and resting on every step. At the first landing he swung around facing the room and, as he stood there leaning against the hand-rail and breathing heavily, the door below suddenly flew open and John, the court attendant, entered, leading in the jury like the bell-wether of a docile flock of sheep.

For a moment the wearied litigant on the stairway regarded the visitors with dull, unrecognizing gaze. Then his fingers closed convulsively on the balustrade and, leaning far across it, he scanned each passing face with horrible intensity, his lips moving as though in

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prayer. Suddenly his arm shot forth in a detaining gesture and his voice rang out with startling clearness:

“For God’s sake, gentlemen—”

Mr. Poinder instantly clapped his hand over the speaker’s mouth, and Brundage, slamming the stove-door shut with a crash, managed to divert attention from the stairs until the deputy court attendant, bringing up in the rear, had herded the last jurymen into the dining-room.

Every eye in the room was centered on Poinder as he slowly released his hand and gazed straight into his client’s face.

“Don’t lose this case for me, Mr. Gedney,” he commanded in a tense whisper, and, slipping an arm around the old gentleman, fairly carried him up the remaining stairs.

CHAPTER XV

THE LIMITS OF DISCRETION

"You should be ruled and led
By some discretion that discerns your state
Better than you yourself."

King Lear.

THE occupants of the lobby exchanged significant glances as the scene on the stairway ended, but no one offered any comment, and the silence remained unbroken until Foster drew a long breath and, opening the stove-door, noisily threw in a log of wood.

"I don't like this sort of thing," he muttered. "It takes all the fun out of practicing law. Damn Peck and Dunham and all such shysters, I say!"

"I don't know why you blame them," protested Thompson.

"Because they don't play the game," interrupted Warren.

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"They play it according to the rules."

"Not as I understand them."

"Well, they 're not responsible for your understanding. Ask Poinder. Don't you suppose he'd have brought them up with a round turn if they'd overstepped the bounds? Of course he would! But he knows, and every other member of the Bar ought to know, what the rules permit—"

"Hush!" interrupted Brundage. "He's coming. . . . Hello, Dick!" he continued, as the lawyer hove in sight. "We've all been studying your jury on its way to the trough, and we've unanimously decided that they're with you to a man."

"That's right," assented Foster. "Some of us see it in their eyes, others know it by their walk, others tell it by their mouths, and I'm sure of it because the honest farmers carry their overcoats with 'em wherever they go, which proves that they suspect the Resurrectionist! But all these signs are equally infallible and every omen is with you."

Poinder smiled faintly, but his face wore an

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anxious expression as he seated himself on an arm of Foster's chair and began rolling a cigarette.

"I hope you're right, boys," he responded, calmly. "I think myself that they'll agree before long, if—"

He paused, glancing slowly around the circle, but Brundage nodded, reassuringly.

"Go ahead, Dick," he laughed. "There's none of the enemy present. If what?"

Gedney's counsel moistened the paper of his cigarette, and then looked up quickly.

"If Kinsley does n't prevent it," he answered, quietly.

"Kinsley?"

The question was a whispered exclamation coming from right and left as the circle of chairs contracted; but Brundage was the first to put it in another form.

"How can the Judge prevent them from agreeing, Dick?" he demanded.

"He can dismiss them when he thinks they've been out long enough, Tom; and, as he's been of that opinion for some time, he's likely to do it at any minute now."

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"What!" exclaimed Foster. "They have n't been out four hours yet."

"I know that," continued Poinder. "But Kinsley began to get restless two hours ago. He called Dunham, Peck, and me into his chambers at half-past five and asked us if we did n't think it was about time that the jurors were discharged. Of course the Resurrectionist made a show of protesting, but anybody could see he was n't sincere, and if I had n't objected pretty strenuously I believe the thing would have been done on the spot. Since then his Honor has had two other conferences with us on the same subject, and each time I've had to fight him practically alone. I tell you I don't like the look of things—I don't like it at all."

"Why I never heard of such an outrage!" commented Foster. "What's the matter with Kinsley, Dick? I always knew he was stupid, but I certainly thought he was straight. Is n't he?"

Poinder lit a match and sat idly watching the flame for a moment before he tossed it under the stove.

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"Yes, I suppose he's straight according to his lights," he responded. "But everybody knows that he's ambitious for another term on the Bench, and it's pretty hard to forget that the Supply Company is quite a political power in this county. Very few of us could forget it if our job was in danger and election day was near at hand. As long as we elect our judges we expose them to just such temptations, and even when they resist them they're open to suspicion, which is almost as bad for their influence with the public as—"

"Oh, cut out the theorizing, Poinder, and get down to brass tacks," interrupted Thompson. "Do you mean to say that Kingsley's actually working with the Supply people?"

The lawyer slowly shook his head.

"Not consciously," he answered. "He knows perfectly well that the Company is n't anxious to have this case decided, and that they want to keep it hanging over Gedney's head. But he's persuaded himself that he is n't affected by this fact. What's troubling him is his 'record.' You've heard of his 'record,' have n't you?"

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“Good Lord!” laughed Foster. “Who has n’t?”

“If anybody in this county does n’t know that the Honorable Jacob has been reversed less than any other judge on this Circuit, it is n’t because he has n’t advertised that fact,” commented Plimpton.

“Well, there you have the secret of the whole thing,” resumed Poinder. “Dunham took two hundred and ninety-seven exceptions to his Honor’s rulings during the course of this trial.”

Brundage nodded.

“I see,” he reflected. “There are two hundred and ninety-seven chances of his having been tripped up on some fine point of law, if the case is reviewed in a higher court, so he’s decided to play ‘the thirteenth juror’ and prevent an agreement.”

“Of course,” assented Foster. “If there’s no verdict, there’s nothing to appeal from and his precious ‘record’ is safe. Naturally he prefers a mis-trial. What judicial side-stepper would n’t?”

“Especially when his fears coincide with political expediency,” added Plimpton.

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"No; give the devil his due," protested Poinder. "I confess that at one time I thought he was afraid of the Supply folks, but I don't now. It's the rules of evidence and the technical decisions that have cowed him and got on his nerves. Of course he didn't want to try this case, and you all know how hard he struggled to get rid of it. But I honestly believe he'd have judged it on the merits, without regard to his political fortunes, if there'd been no legal quibbles raised. It's only because he is 'law sick' that he's playing into my opponent's hands. However, I'll tell you what I'm going to do—"

"Hush," interrupted the State's Attorney. "Here comes the jury."

There were no signs of dissension or trouble of any kind among the jurors, as they filed from the dining-room. On the contrary, they appeared in such capital spirits that their laughter and general lack of seriousness rather grated upon the watching group of lawyers, and, when they finally made their exit in a perfect gale of merriment, the lobby glanced anxiously and sympathetically at the counsel in the cause. But Poinder was

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absorbed in drawing patterns on the floor with the poker and did not look up till Brundage addressed him.

"You were just about to tell us something, when those merry picknickers interrupted, Dick," he observed. "What was it?"

"Nothing; except that I don't intend to hold any more conferences with Kinsley in his private quarters," responded the lawyer. "If he is going to discharge this jury, I'm going to make him do it from the Bench in open court—where you gentlemen will find plenty of room on the front benches, if the spirit moves you to attend," he added, meaningly.

"By Jove, that's a good idea, old man," exclaimed Warren. "We can make it a sort of professional mass-meeting."

"As a silent protest," amended Foster.

Poinder nodded.

"I think his Honor would n't misunderstand your presence," he responded. "Can I count on you?"

"To a man," asserted Brundage, glancing confidently round the circle.

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"Good! You won't have to wait long. I'm going over to the court-house now and I'll let you know if you're wanted."

Poinder rose as he spoke.

"Hello, Zeb," he continued, as the handy man of the Reeve House entered with a fresh basket of wood. "Ask Pete if you can come across the Green with me on an errand of some importance. . . . What's that? Abner Saltus is outside? All right. Tell him I'm coming. . . . I thought we would n't have long to wait, gentlemen," he went on. "The Judge's secretary has arrived with a message from the Court."

Half an hour later the occupants of the lobby, responding to Zeb's breathless summons, rose as one man and hurriedly followed him across the village green. The dimly lighted court-room was strangely silent as they entered and filed into the foremost seats. Judge Kinsley was on the bench, apparently absorbed in the perusal of a legal document. At one of the counsel tables sat Wallace Dunham in his big fur overcoat, poring

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over a time-table with Artemus Peck, while Poinder, almost hidden in the shadow, was busily writing at the other.

The Judge looked up sharply as the visitors entered, and the Resurrectionist, removing his big-rimmed, tortoise-shell eye-glass, stared at them in frank astonishment for a moment, and then glanced questioningly at his adversary. But Poinder continued his writing undisturbed, and it was not until Brundage slipped into a chair beside him that he turned toward his supporters.

"It's too late," he whispered to the State's Attorney. "He's sent for the jurors already. Dunham and Peck practically consented to their discharge, and he would n't hear a word from me. I've made pretty complete notes of everything that's happened, however, and I'm going to get a full protest on the record before he actually carries this thing through."

"He won't carry it through," muttered Brundage, confidently.

Poinder glanced smilingly at the well-filled benches.

"I don't know," he responded. "He's almost

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committed himself to it now. However, there's just a bare chance that—Hush! They're coming."

Every head in the room turned as the iron stairway rang with the tramp of feet, and in another moment the door opened and the twelve men entered, and, shambling up the aisle, took their seats in the jury-box.

Judge Kinsley, leaning across the judicial desk, watched them intently while the clerk called the roll, and as the last man responded to his name he addressed them in low, courteous tones.

"Gentlemen," he began, "you have now been deliberating on this case for several hours and though I am loth to exercise the discretionary power of discharging you with which I am clothed by the law, yet I feel that it would be improper to coerce your judgment by further confinement. If there were any chance of your being able to agree upon a verdict—"

"Say, Judge," interrupted a voice from the rear of the box, "we agreed long ago, but the foreman said—"



"Do you see any green in that?" he drawled

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The crash of the Judge's gavel silenced the speaker, but crash after crash was required to bring the audience to order. Then, glaring fiercely at the offenders for a moment, Kinsley turned slowly to the jury-box.

"Am I to understand, sir," he demanded of the foreman, "that you have agreed upon a verdict?"

"That 's right, Judge."

Again the gavel crashed upon the desk, but the warning was unnecessary as far as the audience was concerned, and, noting this, the Judge turned and nodded to the clerk.

"Gentlemen of the jury," began that official. "Gentlemen of the jury, you say that you have agreed upon a verdict. How do you find? For the plaintiff or defendant?"

The lanky countryman in the foreman's seat rose slowly as the clerk concluded his formula.

"For the defendant," he responded clearly.

The festivities at the Reeve House were at their height, and Poinder, mounted on a trunk, was endeavoring to respond to a call for a speech

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amid a volley of laughter and applause, when Brundage, sitting on the office desk, with his arm flung fraternally over the foreman's shoulder, inquired why the jury had taken so long to reach their verdict.

"We did n't take no time at all," was the shouted answer. "We agreed on the first ballot."

"What!" roared the State's Attorney, trying to make his voice heard above the din. "You agreed *at once!* Then why in thunder did n't you say so?"

The foreman drew down his lower eyelid.

"Do you see any green in that?" he drawled. "Did n't the county have to furnish us with a free supper if we stayed out? You bet it did. We were n't born yesterday, Mister!"

CHAPTER XVI

ON THE MERITS

“Joys are bubble like,
What makes them, bursts them too.”

Bailey.

THE lobby of the Reeve House looked like the waiting-room of a busy railway station the morning after the verdict. Trunks, bags, boxes, and all the paraphernalia of travel lay scattered about the floor in every direction, and the guests, with overcoats and hats on, mounted guard over their belongings or stood chatting with the proprietor at the office desk as his employees shuffled in and out transferring the baggage to the hay cart that was always pressed into service when the Circuit Court adjourned.

The hour for speeding his parting guests was usually a sore trial for Old Man Reeve, and it was not merely the financial loss involved in the exodus that dampened his normally buoyant

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spirits. On the contrary, it is probable that he would have been glad to relinquish all chances of profit if he could have induced the Bar of Fraser County to prolong its stay in Belo, for the only time he really lived was during the sessions of the court. The rest of the year he simply "rusted out," as he expressed it, although the legal fraternity declared that he grew fatter and jollier and generally more youthful every day he lived. Certainly he always appeared to be in fine feather when he welcomed the profession on its quarterly returns to the county seat. But there was one sign of age which he had undeniably displayed in recent years, and that was his marked aversion to bidding any one good-by. That he was well aware of this weakness, and desired to conceal it, was apparent from the fact that he generally managed to absent himself altogether from the scene during the last day of the term, leaving Zeb Turner, as master of the closing ceremonies.

But on this occasion the old man occupied his favorite perch on the bookkeeper's stool behind the desk, and as he sat there chatting with the

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familiars of the lobby his face was so unmistakably jovial and contented that some one jestingly remarked that he didn't seem to be grieving much at the departure of his friends.

"No, sir, I can't weep on anybody's shoulder to-day," he responded, cheerily. "Last night's verdict made me as frisky's a colt, and Dave Gedney's gained 'bout ten years in 's many hours. . . . Ain't I scared the Supply Company'll boycott me for sidin' so openly agin 'em?" he continued, with a loud guffaw. "No, sir, I ain't! There never wuz no love lost between me and them sence they started huntin' fer Dave's scalp. He'n me's been friends too long for me to cuddle his enemies. Reckon it's lucky that great counsel they lugged up from the city did n't stay here. I might 'a' been tempted to pizen his tea! But 'twar n't necessary. Dick Poinder settled his hash. He done 'em! . . . What are you all howlin' 'bout? I don't see the joke. Dunham is his name? Of course I know that, but I don't see nothing partic'ly funny 'bout it. . . . Take a check from you, Mr. Plimpton? Yes, sir, I'd take Confederate bills from any member o' this

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Bar. Never knew any you folks to stick me yit, and hope I'll die 'fore I take to suspectin' my friends. No use tryin' to skin a man who's got so many lawyers 'round him, eh? Well, maybe there's somethin' in that, counselor! . . . Yes, sir; stage'll be 'long in 'bout half an hour. Never knew 'em to miss a train yit. No such luck for the Reeve House! . . . Telegram for Mr. Gedney? All right, boy, I'll sign for it. . . . Here, Zeb, hop up stairs with this to Mr. Gedney's room. . . . He's had 'bout eleventeen of them congratulatin' messages already this mornin', and I bet there's been bunting on his factory sence sun-up. My! They won't know him when he gits home, he's grown so young over night. Spry? Well, he's a regular four-year-old, thanks to the jury! . . . Want a receipt, Mr. Plimpton?"

The lawyer shook his head as he blotted the signature on his check.

"Mr. Gedney does n't owe any thanks to those jurors, Pete," he observed. "That was a pretty mean trick they played on him last night, I think."

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“What? Stayin’ out till they’d had their supper?” laughed the old man. “Shucks! I’d near forgotten that. Yes, sir, it *wuz* sorter triflin’ with his nerves. But, say, I’ve a notion that they war n’t only just plottin’ for a free meal. I b’lieve the foreman wuz guyin’ you, Mr. Brundage, when he sprung that yarn. I wuz talkin’ to some of the other fellers afterwards, and they let on they did n’t think ’twas quite becomin’ to find a real quick verdict in a big case like that. You see they know’d the Supply folks’d been fightin’ Gedney off for more’n a year. Some of ’em wuz on the panel when the case first come up in court five terms back, and they calc’lated that ’twar n’t hardly decent to settle a three days’ trial in three minutes. So I reckon a few of ’em cast blank ballots and kept on castin’ ’em so’s to make themselves sorter important. I ain’t got the hull truth of the matter yit, but I’m thinkin’ my guess ain’t far from right. . . . Want your trunk, Mr. Corning? Ain’t it been brought down yit? Sho! . . . Here, you Zeb, git somebody and hustle Mr. Corning’s things down, and, while you’re at

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it, take a look into Mr. Poinder's room, boy, and see ef his trunk 's closed. If 't is, strap it up and bring it along. He won't have much to spare, time he 's back."

"Where 's he gone, Pete?" demanded Brundage.

"Over to court, counselor."

The State's Attorney nodded.

"Of course!" he assented, "The Judge postponed the formal motions in the case until this morning, did n't he? Well, it 's the last act in the great drama of the Supply Company *vs.* Gedney & Son, and it ought n't to take him long to ring down the curtain on that. I wonder he did n't leave it to a clerk."

Old Man Reeve shook his head decisively.

"No, siree!" he asserted. "Them formal motions, as you call 'em, is nuts to the winner, and ef I wuz Mr. Poinder I would n't miss seein' the Supply folks sit up on their hind legs and beg for a new trial for anything. And then I 'd soak 'em for the biggest extra allowance and all the costs I could git! Dick Poinder ain't no gloater, but he 'd be somethin' less than human ef he did n't

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want to stamp the ground in over that there 'Resurrectionist.' Gosh! I'll never forget *his* face when the foreman spoke his little piece last night! I'm goin' to think 'bout it when I get the rheumatics. Betcher it'll make me laugh! He wuz the most surprised man—"

"Who are you talking about, Pete?" interrupted Warren, pausing as he passed the desk. "Wallace Dunham? Humph! He was n't surprised. He was absolutely flabbergasted, and I don't blame him. First he believed he was going to win hands down; then he thought Kinsley was going to dismiss the jury and give him a new lease of life, and then the verdict knocked the wind clean out of him."

The proprietor's eyes twinkled reminiscently as he lit his pipe.

"There war n't nothin' else in him to knock, Mr. Warren," he chuckled. "I sized him up as a big bag er wind soon 's I sot eyes on him, and I reckon I war n't far wrong. That sort of a 'Resurrectionist' may be able to revive dead cases in the city, but in this county his final trump won't open no graves. Little Peck knows our

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people better 'n any city shark that ever lived, and I b'lieve the Supply folks made a big mistake in handicappin' him with that Dunham man. What do you think, Mr. Brundage?"

The State's Attorney shrugged his shoulders.

"I don't know, Pete," he responded. "He disappointed me, but I rather think he impressed Judge Kinsley."

The old man nodded reflectively.

"You're right there, counselor," he admitted. "He certainly scared Kinsley, and maybe 'impressed' is a politer word. But *Mr. Poinder* war n't afraid of him. He had him agin the ropes most of the time, just as I know'd he would soon 's he got him in the ring."

"I should say this had been a perfect example of a running fight," commented Watkins, as he tossed a calling card on the desk. "There's been more running than fighting in it anyway. . . . That's my mail address, Pete."

The proprietor slipped the card into the letter-box beside him.

"All right, sir," he responded. "Of course there wuz more runnin' than fightin' to it," he

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continued. "It wuz an obstacle race from start to finish, with the Supply folks buildin' the obstacles and Gedney clamberin' over 'em till his legs wuz pretty nigh wobbled off. I reckon some of you fellers don't exactly realize how near gone Dave wuz. But now it's all over I don't mind tellin' you he almost threw up the sponge last term, and another adjournment this session would have put him down and out. You see, as long as the Supply Company had this suit agin him lots of his customers fought shy of doing business with him for fear of gettin' themselves mixed up in the trouble, and his credit wuz at the snappin' point, which wuz just what them Supply devils wanted. He'd have had to sell out to 'em or bust inside of another month, and I reckon that between bustin' and taking what they'd have given him there would n't have been no great choice. The banks treated him fair and square enough, but they saw his finish unless this case wuz out of the way, and they allowed they would n't carry him another term nohow. . . . Hello! here he comes. Right this way, Dave!"

CHAPTER XVII

TO ABIDE THE EVENT

"And lo! the phantom caravan has reached
The Nothing it set out from. O make haste!"

Omar Khayyám.

MR. REEVE'S allusions to the sprightliness of his friend were not borne out by the senior partner of Gedney & Son as he descended the lobby stairs, for he moved very slowly, leaning heavily on the hand-rail, and his drawn and haggard face still showed the terrific strain to which he had been subjected. But those who had seen him on the same stairway the previous evening when the verdict was in doubt readily understood the proprietor's optimistic report of his health. He certainly was a very different person from the half-crazed, disheveled old man who had aroused the sympathy of the legal profession as no other layman had done for many a

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year in Belo. Feeble and nerve-wrecked he undoubtedly was, but as he moved down the stairs, clothed in his neat, old-fashioned garments, there was something so dignified and courageous in his bearing that the lobby suddenly broke into a spontaneous round of applause. The little old gentleman's gaunt face flushed with pleasure as the sound of the hand-clapping reached his ears, and, pausing two or three steps from the foot of the stairs, he gravely lifted his tall hat in recognition of the courtesy.

"Speech!" shouted somebody, and the applause began again, swelling this time to quite a small ovation. A smile of gratification flickered on the veteran's lips, but his eyes were suspiciously moist as he slowly raised a trembling hand commanding silence. The lobby instantly responded, but for a few moments the hush remained unbroken as the old man struggled to master his emotions.

"Gentlemen," he began at last in a low voice that quavered slightly, "I cannot express my appreciation of this greeting. All I dare trust myself to say is thank you—thank you a

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thousand times. But, gentlemen, it is not me you should applaud, but my counsel, Mr. Poinder, of whom the Bar of Fraser County has good reason to be proud this day."

"Three cheers for Dick Poinder!" shouted a voice, and they were given with a will.

"That tribute does you honor, gentlemen," resumed the speaker. "No lawyer ever fought more skilfully, more fearlessly, or more untiringly for a client than Mr. Poinder in his defense of the house of Gedney & Son. He has been more than a legal adviser to us. He has been a friend whose indomitable courage has enabled me to keep the field when hope was almost gone. I can never repay him for the services he has performed."

Mr. Gedney's voice broke, and he paused, nervously fumbling with his handkerchief, while the little group of listeners waited in respectful silence as he endeavored to regain his self-control.

"Bear with me a moment," he continued, speaking very slowly. "I want to say something more to you, and I will try to say it as calmly and

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briefly as I can. . . . Your distinguished colleague has achieved a great triumph for me. But, gentlemen, in fighting my battles he has, I make bold to say, been likewise championing you, and not only you, but every one who loves his country, for he has been defending the law of the land. . . . You who have seen me haunting this place term after term know how long we have struggled to get our case to trial, and you know the means that have been employed to thwart us. But I wonder if you realize that it has been the Administration of Justice that has been on trial during all these weary weeks and months? . . . I have been too vitally interested in the immediate outcome of this particular action to philosophize very deeply concerning the general state of the law. But, absorbed as I have been by the knowledge that further delay in this litigation would ruin my whole life-work, I have never lost sight of the fact that something far more important than my individual fortunes was at stake in this cause, and I believe it was this that sustained me and strengthened the arm of my devoted counsel. . . . My friends, when the law

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becomes the sport of the unscrupulous and a weapon of oppression in strong hands, the very existence of this Republic will be in peril. Thank God that day has not yet dawned; and it remains for you, who are sworn officers of the court, to say that it never shall arrive. But the peril is very real, gentlemen, and your responsibility is great—greater than that which rests upon any other body of Americans to-day. . . . Perhaps I have said too much; but we are parting, never probably to meet again, and the warmth of your greeting has encouraged a garrulous old man to speak his mind. I thank you.”

The speaker paused, and, swaying slightly, leaned against the balustrade, smiling faintly in recognition of the hearty applause that greeted his closing words, and before it died away Old Man Reeve started for the stairs.

“Git a chair for him near the window in my office, Mr. Brundage,” he whispered, as he passed the State’s Attorney. “He’s overtaxed his strength a bit. And, Zeb! bring us the flask of brandy you’ll find in the dining-room sideboard. Here’s the key. . . . Now, Dave, just lay a

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finger on my arm. . . . Sure, I know you kin walk alone, but ef two heads is better 'n one, why should n't four feet be twice as good 's two? . . . There you are! That's a pretty uncomfortable-lookin' chair, Mr. Brundage. Ain't we got nothin' better outside? Well, never mind. Dave says he likes this. . . . Want to sit up straight, eh? . . . Got a sorter stitch in your side? Humph! That's too bad; but I'll have a nip of brandy for you in 'bout a minute, and that'll fix you all right. . . . What's that? . . . Son's got somethin' better, has he? Good! Where is he? Upstairs? All right. I'll fetch him."

The old man turned, and, hurrying into the lobby, found himself confronting a newcomer who was staring around the room as though searching for a familiar face. The man was equipped from head to foot for motoring, but despite his big goggles and the fur helmet which concealed most of his face, there was something in his huge bulk and domineering presence that speedily turned the proprietor's look of amused surprise into a scowl as he recognized Wallace

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Dunham, and, nodding curtly, started to pass on. The visiting jurist, however, laid a detaining hand upon his arm.

"You are Mister—?" he hesitated, groping for the name. "You are the proprietor here, are you not?" he continued, shoving up his goggles as he spoke.

Old Man Reeve shook himself free, and turned away abruptly.

"You win," he responded over his shoulder, as he moved toward the stairs.

"Then wait a moment, please."

The Resurrectionist drew off one of his fur gauntlets and, unbuttoning his huge overcoat, produced a leather pocketbook.

"My chauffeur had breakfast here this morning, I believe," he began, "and I want—"

"Settle it with Zeb, the boy over there by the door," interrupted the old man. "He 'tends to the help. I ain't got no time to bother with you now."

Mr. Dunham frowned impatiently as the proprietor disappeared up the stairs, and then, turning with a smile of tolerant superiority, recog-

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nized the State's Attorney, who was emerging from behind the office desk.

"Good-morning, Mr. Brundage," he observed. "Our host seems somewhat short-tempered to-day. Maybe you will introduce me to a gentleman named Zeb, who is, I believe, deputed to receive cash insults for his chief?"

Brundage laughed, and beckoning to the handy man of the Reeve House, presented him with due formality.

"Mr. Zeb, I'm charmed to make your acquaintance," continued the lawyer in a bantering tone. "Will you be good enough to inform me what I owe for my chauffeur's breakfast? Fifty cents? That hardly seems adequate to me, knowing as I do the enormous appetite acquired by chauffeurs in their healthful outdoor labor. But if you deem it sufficient I must, I suppose, reluctantly concur in the result, merely requesting that you will transmit my thanks to the excellent Boniface whom you so ably represent."

Zeb eyed the speaker with an expression which plainly showed that he did not relish these facetious remarks and was prepared to show his

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resentment more forcibly if occasion required. He received the half-dollar in silence, however, and, dropping it into his pocket, swung on his heel without a word.

Dunham watched him with a mocking smile and then turned to Brundage.

"I fear yonder yokel is not blessed with a nice sense of humor," he observed. "Upon my word I think countrymen are the sourest mortals God ever made. I've hardly heard a laugh since I left town, and if I don't get back there soon I'm afraid my face will grow so long they'll charge me double price for shaving. By the way, is there a telegraph office in this establishment?"

The State's Attorney shook his head.

"No," he responded. "But there's one in the railroad depot, if you're going in that direction."

Mr. Dunham consulted his watch.

"I'm not," he responded. "And I haven't time to go out of my way, either. I wonder, if I left a message whether any one here could take it—"

"Certainly," interposed Brundage. "Put it in the bookkeeper's window there, and Mr. Reeve

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will send it down with the stage-driver. He 'll be here inside of half an hour."

"Good!"

The Resurrectionist stepped to the desk, drew a telegraph blank toward him, and, rapidly penciling a few words, shoved the message with a coin through the round hole in the glass partition guarding the clerical desk.

"You 'll call the old boor's attention to that when he comes down—won't you, Brundage?" he inquired. "Thanks ever so much. Good-by."

The occupants of the lobby sauntered out on the piazza as Mr. Dunham strode from the room and stood watching him as he mounted into the driver's seat of the waiting car. There was nothing remarkable in the way the chauffeur tucked the rug around his employer, and his method of cranking the machine was commonplace in the extreme, but the little group in front of the Reeve House followed each move as though they were witnessing a novel experiment, every detail of which should be carefully observed. Mr. Dunham looked up as the engine began to throb, and, catching sight of his audience,

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waved a hand toward them as he drew his goggles into place.

"So long, gentlemen," he called out as he threw in the clutch. "See you next term, I hope."

The car sprang forward, and as it disappeared around a bend in the road with a defiant screech of its siren, the watching lawyers turned to each other with questioning glances. But it was Warren who voiced the thought that was uppermost in their minds.

"I wonder what he meant by that parting salutation," he reflected.

"Durned if I know," yawned Plimpton, "unless he thinks the Appellate Court holds its sessions here."

"That's it, of course," asserted Corning. "They're going to appeal the Gedney case, and he supposes it'll be argued in Belo. His guess is about as good as his chances of winning on appeal, in my opinion."

"Well, he's a sport, anyway," commented Foster. "Most men would have been a bit sore after the hiding he got yesterday, but he's a



"So long, gentlemen. - See you next term, I hope."

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better loser than I thought he was last night. I don't believe many of us would be as good-tempered under similar circumstances. . . . Hello! What's that, I wonder? It sounds as though somebody had fallen down the stairs!"

The speaker turned as he spoke, and, hurrying to the open door, uttered a cry of alarm that quickly brought the others crowding around him.

On the lobby floor lay Mr. Gedney, face downwards, his arms extended, his hands clenched, and his hat rolled to one side. For a moment the lawyers gazed helplessly at one another, and then Mr. Brundage sprang forward, and, kneeling beside the fallen man, gently raised his head.

Some one ran to the dining-room and hurried back with a glass of water, but Brundage merely shook his head when it was offered, and, bending over the prostrate man, carefully felt his pulse. The white-faced group around him watched the test in almost breathless silence, and the tension was at the breaking point when young Corning spoke.

"Shall I go for a doctor?" he whispered, hoarsely.

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The State's Attorney, with his fingers still on Mr. Gedney's wrist, did not answer for a moment. Then he slowly nodded.

"I suppose so," he responded. "But I'm afraid it's too late. He's gone, I think. Foster, you've had some medical experience. See if you find any sign of life here."

No one spoke as Foster complied with this request, and it was not until he raised his head, after vainly listening for a heartbeat, that Brundage broke the silence.

"Plimpton run up stairs and keep Pete from coming down," he suggested. "He mustn't know this yet."

The lawyer nodded, but pointed to the body on the floor as he moved toward the stairs.

"What's that in his hand?" he whispered.

The State's Attorney glanced in the direction indicated, and, kneeling again, raised the dead man's right hand, and, gently releasing the clenched fingers, drew forth a crumpled paper.

"Good God!" he muttered, as he smoothed out the sheet upon his knee. "It's Dunham's telegram. . . . Gedney must have found it on the

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desk. . . . No wonder it killed him. Listen!" he continued. "It's addressed to the Farmers' Supply Company. '*Congratulations,*' it reads. '*On strength of my exceptions Judge Kinsley set aside Gedney verdict this morning and ordered a new trial. Costs to abide the event.*' Signed, '*Wallace Dunham.*' "

"The Resurrectionist!" gasped Warren.

"The murderer, you mean," corrected Corning.

Mr. Brundage laid his hand on the speaker's shoulder.

"Don't, my boy!" he protested, quietly. "No member of the Bar can afford to talk like that. You know perfectly well that every lawyer is licensed to do all that Dunham did and a good deal more. Don't let *us*, at least, fool ourselves by putting the blame where it does n't belong. This poor fellow has been executed by the law whose crimes we are condoning every day, and such work will continue until public opinion—"

"Hush!" interrupted Foster from the window. "Here comes Poinder. . . ."

THE END



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